

State of Minnesota

STATE REGISTER

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Department of Administration—Print Communications Division

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STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, contract awards, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Printing Schedule and Submission Deadlines

Vol. 13 Issue Number	*Submission deadline for Adopted and Proposed Rules**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
42	Monday 3 April	Monday 10 April	Monday 17 April
43	Monday 10 April	Monday 17 April	Monday 24 April
44	Monday 17 April	Monday 24 April	Monday 1 May
45	Monday 24 April	Monday 1 May	Monday 8 May

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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Sandra J. Hale, Commissioner
Department of Administration
Stephen A. Ordahl, Director
Minnesota Documents Division

Robin PanLener, Editor
Paul Hoffman, Assistant Editor
Debbie George, Circulation Manager
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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as **Proposed Rules**. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747.

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Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Permanent Rules Relating to Bank Real Estate Loans and Audit Control Policies

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for rules, adopted without a public hearing in *Minnesota Statutes*, Sections 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 45.023 and 46.01.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, sections 14.14 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Richard G. Gomsrud
Department Counsel
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-5689

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request from Richard Gomsrud.

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2675.0901 REAL ESTATE LOANS-DOCUMENTATION.

Each real estate secured loan file shall include the following documentation and evidence where the loan is in an amount over \$7,500 or not otherwise exempt from the definition of real estate in *Minnesota Statutes*, section 48.19, subdivision 4 \$25,000:

A. An attorney's opinion or a title insurance policy, ~~or, in the case of Torrens title property, a duplicate certificate of title with memorial of the bank's mortgage thereon~~ is required on all real estate loans which shall describe the status of fee title, the validity of the bank's lien, and the position of the lien.

B. and C. [Unchanged.]

2675.2170 OTHER REAL ESTATE.

Other real estate:

A. and B. [Unchanged.]

C. Reasonable attempts shall be made to dispose of other real estate by sale. The other real estate file shall be documented with disposal attempts. In no case, is depreciation required on other real estate, but it shall be removed from the books within ~~five~~ ten years after acquisition according to *Minnesota Statutes*, section 48.21, subdivision 3.

D. and E. [Unchanged.]

F. Expenditures approved by the board for permanent improvements to other real estate owned, in order to improve marketability, may be capitalized up to ten percent of the amounts referred to in item B and further provided the original amount plus the additional capitalization does not exceed the amount of the appraisal required by item B.

FINANCIAL INSTITUTION AUDIT CONTROL POLICIES

2675.2600 INTERNAL AUDIT CONTROL POLICY.

Subpart 1. Written internal audit control policy. The board of directors of a bank, trust company, or savings bank shall establish a written internal audit control system. Documentation of internal audit procedures performed and the reports shall be maintained by the bank for inspection by the supervisory examiners and by the external auditors. The scope of coverage and effectiveness of the internal audit control system shall be reviewed for adequacy and approved by the board annually. The board shall consider inclusion of recommendations made by supervisory examiners and external auditors in the internal audit control system.

Subp. 2. Resolution officer. The board of directors, through its management, will designate one or more of its officers as a resolution officer. It is the responsibility of this person to promptly investigate and respond to written complaints, disputes, and inquiries from bank customers regarding the customer's account or bank activities. Individual files containing the complaint letter, investigation procedure, and disposition of the matter shall be maintained for 18 months following disposition.

REPEALER. *Minnesota Rules*, part 2675.2610, subpart 2, is repealed.

Department of Commerce

Proposed Permanent Rules Relating to Credit Unions

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for rules adopted without a public hearing in *Minnesota*

Proposed Rules

Statutes, Sections 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 45.023 and 52.05.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, sections 14.14 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Richard G. Gomsrud
Department Counsel
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-5689

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request from Richard Gomsrud.

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

2675.6400 SELECT GROUP IDENTIFICATION

Subpart 1. **Select group identification.** A select group is one that:

- A. has a common bond as defined in *Minnesota Statutes*, section 52.05, subdivision 1; and
- B. cannot feasibly form and maintain a credit union with its own membership, but desires to join an existing credit union.

Subp. 2. **Application procedure.** Residents of this state may apply to be a select group by including the following information in writing:

- A. the basis on which the undersigned residents or individuals represent the select group;
- B. a description of the basis of common bond affinity of the members of the petitioning group consistent with *Minnesota Statutes*, section 52.05, subdivision 1;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

C. if the members of the group are part of an existing credit union, a waiver or consent from the board of directors of the existing credit union that states that the credit union has no objection to the applicants' certification as a select group eligible to petition another existing credit union for membership; and

D. a count or reasonable estimate of the potential numbers of the group, the basis on which the potential number was determined, and a statement whether the group is aware of any existing credit union service available to the group. This statement is solely for informational use by the department.

Subp. 3. Groups with fewer than 1,500 potential members. Groups with fewer than 1,500 potential members will be considered too small to be feasible as a separate credit union unless the requirements of subpart 1 are satisfied and:

A. the group desires to form its own credit union; or

B. the group cannot obtain an agreement from an existing credit union to be part of it.

Subp. 4. Groups with more than 1,500 potential members. A group with more than 1,500 potential members will also be considered as a select group if it otherwise can comply with subpart 1.

Subp. 5. Approval. Upon receipt of an application from a group, the commissioner shall, within 30 days of receipt of the application, approve or disapprove it. If disapproved, the commissioner shall provide the applicants with a written explanation on which the denial was based. The commissioner may ask for additional information or statements at any time before the application is considered complete. All group applications, except for applications from groups made up of members of existing credit unions or groups made up of people who have a common employer which qualifies them for membership in an existing credit union, will be considered separately from any consideration of the membership provisions of existing credit unions.

Subp. 6. Subsequent action by an existing credit union. For an existing credit union to qualify for approval of a bylaw amendment to include an eligible select group in its field of membership, in addition to the requirements in *Minnesota Statutes* section 52.02, the existing credit union must be capable of serving the eligible select group, and the commissioner may require:

A. the existing credit union and representatives of the eligible group to agree on and submit a plan of operation to facilitate servicing of the members of the eligible select group for the commissioner's consideration on a case by case basis; and

B. a statement that solicitations will not be directed at individuals to join the select group as a condition for membership in the credit union.

Department of Health

Proposed Permanent Rules Relating to Health Maintenance Organizations

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health (hereinafter "Department") intends to adopt the above entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 62D.20, 62D.08 and 62D.182.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules, and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Department will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Dawna L. Tierney
Alternative Delivery Systems
Minnesota Department of Health
717 Delaware Street
P.O. Box 9441
Minneapolis, Minnesota 55440
(612) 623-5607

The proposed rules may be modified if the modifications are supported by data and views submitted to the Department and do not result in a substantial change in the proposed rules as noticed.

The rules proposed for adoption establish requirements for health maintenance organization coordination of benefits, annual report and filing requirements, uncovered expenditures and incurred but not reported expenses. A free copy of the rules is available upon request from Dawna L. Tierney.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Dawna L. Tierney upon request.

If no hearing is required, upon adoption of the rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or wish to receive a copy of the adopted rules must submit the written request to Dawna L. Tierney.

Dated: 30 March 1989

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

4685.0100 DEFINITIONS.

Subpart 1. to 9. [Unchanged.]

Subp. 9a. **NAIC Blank.** "NAIC Blank" means the ~~1985~~ 1988 version of the National Association of Insurance Commissioners' Blank for Health Maintenance Organizations (~~1985~~ 1988) published by the Brandon Insurance Service Company, Nashville, Tennessee. The NAIC Blank is incorporated by reference and is available for inspection at Ford Law Library, 117 University Avenue, Saint Paul, Minnesota 55155. The NAIC Blank is subject to annual changes by the publisher, but health maintenance organizations must use the ~~1985~~ 1988 version.

Subp. 9b. to 15. [Unchanged.]

~~4685.0805~~ UNCOVERED EXPENDITURES.

Subpart 1. Defined. Uncovered expenditures as referred to in Minnesota Statutes, section 62D.041, are expenditures by a health maintenance organization or a contracting provider for health care services by a provider who is not a participating entity and who is not under agreement with the health maintenance organization. Examples of providers not under such an agreement include those providing out-of-area services, in-area emergency services, and certain referral services.

Subp. 2. Documentation required. If a health maintenance organization claims certain expenditures that meet the criteria of subpart 1 are covered because they are guaranteed, insured, or assumed, the health maintenance organization must give to the commissioner, with its annual report, documentation of the arrangements. If the arrangements are unchanged from the previous year, the health maintenance organization may reference previously filed documents. Documentation means applicable contracts between the health maintenance organization and the entity guaranteeing, and an explanation thereof.

Subp. 3. When insured. An uncovered expenditure may be considered insured within the applicable coverage limitation and covered if the health maintenance organization can demonstrate to the commissioner that:

A. the health maintenance organization has reinsurance under Minnesota Statutes, section 62D.04, subdivision 1, for nonelective emergency services and services provided outside the service area if those services were provided by nonparticipating providers and any other services provided by nonparticipating providers; or

B. the health maintenance organization has insolvency insurance that expressly covers enrollee obligations incurred before and after the date of insolvency, including obligations to nonparticipating providers.

Subp. 4. When guaranteed. An uncovered expenditure may be considered guaranteed and covered if the health maintenance organization demonstrates to the commissioner that the guarantor has agreed to guarantee obligations of the health maintenance organization to nonparticipating providers and if:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

Proposed Rules

A. the guarantor has demonstrated to the commissioner that it has set aside an amount of money equal to the amount of deposit that it is guaranteeing; the guarantor has issued a letter of credit; or the guarantor has demonstrated to the commissioner that it is a governmental entity with the power to tax;

B. according to its terms, the guarantee cannot expire without written notice from the guarantor to the commissioner and the notice must occur at least 60 days before the expiration date;

C. the guarantee is irrevocable, unconditional, and may be drawn upon after the insolvency of the health maintenance organization; and

D. the guarantee may be drawn upon by the commissioner.

Subp. 5. When assumed. An uncovered expenditure may be considered assumed and covered if the health maintenance organization can demonstrate to the commissioner any other arrangement for uncovered expenditures to be paid by an entity other than the health maintenance organization even in the event of the insolvency of the health maintenance organization. The commissioner shall require financial information relating to the capability of the entity to assume the risk of uncovered expenditures.

Subp. 6. Calculating uncovered expenditures. The health maintenance organization must make an annual calculation of uncovered expenditures according to items A to E.

A. The health maintenance organization shall determine the amount of annual uncovered expenditures in the relevant year before adjustments for guarantees, insurance, or assumptions.

B. The health maintenance organization shall adjust the amount of uncovered expenditures in item A by subtracting:

(1) reinsurance receipts that are described in subpart 3, item A, that are accrued to the relevant year, and that reduced those expenditures; and

(2) any relevant assumptions of risk.

C. The health maintenance organization shall multiply the adjusted amount in item B by 33 percent.

D. The health maintenance organization may subtract from the amount in item C the amounts of any guarantees and insolvency insurance that would reduce uncovered expenditures in the event of insolvency or nonpayment.

E. The health maintenance organization shall use forms supplied by the commissioner in annual reports to report uncovered expenditures.

4685.0815 INCURRED BUT NOT REPORTED LIABILITIES.

Subpart 1. Written records of claims. A health maintenance organization shall keep written records of claims, according to items A to C.

A. A health maintenance organization shall establish and maintain files and records that accurately document its process for calculating claim liabilities, including incurred but not reported claims, that are submitted in annual and quarterly reports to the commissioner.

B. Written records pertaining to claims shall be maintained separately from other records pertaining to claims payable.

C. The health maintenance organization must have complete and accurate claim data available for the commissioner to audit as required under Minnesota Statutes, section 62D.14.

Subp. 2. Calculation of incurred but not reported claims. The liability for incurred but not reported claims shall be calculated in conformity with generally accepted accounting principals and actuarial standards. The health maintenance organization shall calculate its incurred but not reported claims by taking past actual claims experience and then adjusting this base figure for changing trends. Factors that shall be considered reasonable adjustments to the base figure include the following:

A. changes in enrollment mix, provider mix, and product mix;

B. changes in claims or billing procedures;

C. changes in utilization;

D. organizational changes;

E. medical advancements and new procedures; and

F. any other factors the health maintenance organization can demonstrate have an effect on incurred but not reported claims experience.

4685.0900 SUBROGATION AND COORDINATION OF BENEFITS.

The health maintenance organization may require an enrollee to reimburse it for the reasonable value of health maintenance

services provided to an enrollee who is injured through the act or omission of a third person or in the course of employment to the extent the enrollee collects damages or workers' compensation benefits for the diagnosis, care, and treatment of his an injury. The health maintenance organization may be subrogated to the enrollee's rights against the third person or the enrollee's employer to the extent of the reasonable value of the health maintenance services provided including the right to bring suit in the enrollee's name. ~~The health maintenance organization may also provide in its evidences of coverage for coordination of benefits, whereby the health maintenance organization is entitled to determine whether and to what extent an enrollee has indemnity or other coverage for the services or goods provided to the enrollee or benefits paid on behalf of the enrollee by the health maintenance organization, to establish standard for priorities among those obligated to provide services or indemnification, to refer to other, prior sources of care, and to enforce the health maintenance organization's right to recover under those standards. Provided, however, no health maintenance organization may recover the value of services rendered from an enrollee beyond any amount actually received by the enrollee in indemnification for the value of services rendered by the health maintenance organization.~~

The health maintenance organization shall provide covered health services first, and coordinate benefits according to parts 4685.0905 to 4685.0950.

COORDINATION OF BENEFITS

4685.0905 PURPOSE AND APPLICABILITY.

The purpose of parts 4685.0905 to 4685.0950 is to:

- A. permit, but not require, plans to include a coordination of benefits provision;
- B. establish the order in which plans pay claims;
- C. provide the authority for the orderly transfer of information needed to pay claims promptly;
- D. reduce duplication of benefits by permitting a reduction of the benefits paid by a plan when the plan does not have to pay its benefits first;
- E. reduce delays in payment of claims; and
- F. make all contracts that contain a coordination of benefits provision consistent with this regulation.

4685.0910 DEFINITIONS.

Subpart 1. Scope. The following words and terms, when used in parts 4685.0905 to 4685.0950, have the following meanings unless the context clearly indicates otherwise.

Subp. 2. Allowable expense.

A. "Allowable expense" means the necessary, reasonable, and customary item of expense for health care when the item of expense is covered at least in part under any of the plans involved, except where a statute requires a different definition.

B. Notwithstanding this definition, items of expense under coverages such as dental care, vision care, or prescription drug or hearing aid programs may be excluded from the definition of allowable expense. A plan that provides benefits only for such items of expense may limit its definition of allowable expenses to those items of expense.

C. When a plan provides benefits in the form of service, the reasonable cash value of each service is both an allowable expense and a benefit paid.

D. The difference between the cost of a private hospital room and the cost of a semiprivate hospital room is not an allowable expense under this definition unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.

E. When coordination of benefits is restricted to specific coverage in a contract, for example, major medical or dental, the definition of allowable expense must include the corresponding expenses or services to which coordination of benefits applies.

Subp. 3. Claim. "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

- A. services, including supplies;
- B. payment for all or a portion of the expenses incurred;

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C. a combination of items A and B; or

D. an indemnification.

Subp. 4. Claim determination period.

A. “Claim determination period” means the period of time over which allowable expenses are compared with total benefits payable in the absence of coordination of benefits, to determine whether overinsurance exists and how much each plan will pay or provide. The claim determination period must not be less than 12 consecutive months.

B. The claim determination period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person may be covered by a plan during a portion of a claim determination period if that person’s coverage starts or ends during the claim determination period.

C. As each claim is submitted, each plan must determine its liability and pay or provide benefits based upon allowable expenses incurred to that point in the claim determination period. The determination may be adjusted as allowable expenses are incurred later in the same claim determination period.

Subp. 5. **Coordination of benefits.** “Coordination of benefits” means a provision establishing the order in which plans pay their claims.

Subp. 6. **Hospital indemnity benefits.** “Hospital indemnity benefits” are not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

Subp. 7. **Plan.** “Plan” means a form of coverage with which coordination is allowed. The definition of plan in the group contract must state the types of coverage that will be considered in applying the coordination of benefits provision of that contract. The right to include a type of coverage is limited by the rest of this definition.

A. The definition shown in the Model Coordination of Benefits Provisions in part 4685.0950 is an example of what may be used. Any definition that satisfies this subpart may be used.

B. Instead of “plan,” a group contract may use “program” or some other term.

C. Plan includes:

(1) Group insurance and group subscriber contracts.

(2) Uninsured arrangements of group or group-type coverage.

(3) Group or group-type coverage through health maintenance organizations and other prepayment, group practice, and individual practice plans. Group-type contracts are contracts that are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts may be included in the definition of plan, at the option of the insurer or the service provider and the contract client, whether or not uninsured arrangements or individual contract forms are used and regardless of how the group-type coverage is designated, for example, franchise or blanket. Individually underwritten and issued guaranteed renewable policies are not group-type even though purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer.

(4) The amount by which group or group-type hospital indemnity benefits exceed \$100 a day.

(5) The medical benefits coverage in group, group-type, and individual automobile no-fault and traditional automobile fault-type contracts.

(6) Medicare or other governmental benefits, except as provided in item D, subitem (7). That part of the definition of plan may be limited to the hospital, medical, and surgical benefits of the governmental program.

D. Plan does not include:

(1) individual or family insurance contracts;

(2) individual or family subscriber contracts;

(3) individual or family coverage through health maintenance organizations;

(4) individual or family coverage under other prepayment, group practice, and individual practice plans;

(5) group or group-type hospital indemnity benefits of \$100 a day or less;

(6) school accident-type coverages that cover grammar, high school, and college students for accidents only, including athletic injuries, either on a 24-hour basis or on a to and from school basis; and

(7) a state plan under Medicaid, or a law or plan when, by law, its benefits are in excess of those of any private insurance plan or other nongovernmental plan.

Subp. 8. Primary plan. "Primary plan" means a plan that requires benefits for a person's health care coverage to be determined without taking into consideration the existence of any other plan. A plan is a primary plan if either of the following is true:

A. The plan either has no order of benefit determination rules or it has provisions that differ from those permitted by parts 4685.0905 to 4685.0950. There may be more than one primary plan.

B. All plans that cover the person use the order of benefit determination rules required by parts 4685.0905 to 4685.0950 and, under those rules, the plan determines its benefits first.

Subp. 9. Secondary plan. "Secondary plan" means a plan that is not a primary plan. If a person is covered by more than one secondary plan, the order of benefit determination rules in parts 4685.0905 to 4685.0950 determine the order in which their benefits are determined in relation to each other. The benefits of each secondary plan may take into consideration the benefits of the primary plan or plans and the benefits of any other plan which under these rules has its benefits determined before those of that secondary plan.

Subp. 10. This plan. In a coordination of benefits provision, "this plan" refers to the part of the group contract providing the health care benefits to which the coordination of benefits provision applies and that may be reduced because of the benefits of other plans. Any other part of the group contract providing health care benefits is separate from this plan. A group contract may apply one coordination of benefits provision to certain of its benefits, such as dental benefits, coordinating only with like benefits, and may apply other separate coordination of benefits provisions to coordinate other benefits.

4685.0915 COORDINATION OF BENEFITS; PROCEDURES.

Subpart 1. General. The general order of benefits is as follows:

A. The primary plan must pay or provide its benefits as if the secondary plan or plans do not exist. A plan that does not include a coordination provision may not take into account the benefits of another plan as defined in part 4685.0910 when it determines its benefits. The one exception is that a contract holder's coverage designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder.

B. A secondary plan may take the benefits of another plan into account only when, under this part, it is secondary to that other plan.

C. The benefits of the plan that covers the person as an employee, member, or subscriber, that is, other than as a dependent, are determined before those of the plan that covers the person as a dependent.

Subp. 2. Dependent child: parents not separated or divorced. Benefits for a dependent child when the parents are not separated or divorced must be coordinated according to the procedures in items A to E.

A. The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year.

B. If both parents have the same birthday, the benefits of the plan that covered the parent longer are determined before those of the plan that covered the other parent for a shorter time.

C. The word "birthday" refers only to month and day in a calendar year, not the year in which the person was born.

D. A group contract that includes coordination of benefits and is issued or renewed or that has an anniversary date on or after 60 days after the effective date of this subpart must include the substance of the provisions in items A to C. Until this subpart becomes effective, the group contract may contain wording such as: "Except as stated in subpart 3, the benefits of a plan that covers a person as a dependent of a male are determined before those of a plan that covers the person as a dependent of a female."

E. If one parent's plan contains the coordination plan described in items A to C, and the other parent's plan contains the coordination plan based on the gender of the parent, and if, as a result, the parents' plans do not agree on the coordination of benefits, the coordination plan based on the gender of the parent determines the order of benefits.

Subp. 3. Dependent child: separated or divorced parents. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are coordinated according to this subpart. If a court orders one of the parents to pay

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the health care expenses of the child, and the entity that pays or provides the parent's plan knows of the order, the benefits of that parent's plan are determined first. The plan of the other parent is the secondary plan. This paragraph does not apply to any claim determination period or plan year during which benefits are actually paid or provided before the entity knows of the order. If a court order does not require one of the parents to pay the child's health care expenses, benefits are coordinated according to items A to C.

- A. The benefits of the plan of the parent with custody of the child are determined first.
- B. The benefits of the plan of the spouse of the parent with the custody of the child are determined second.
- C. The benefits of the plan of the parent without custody of the child are determined last.
- D. In the case of joint custody, the primary plan will be determined according to subpart 2.

Subp. 4. Active/inactive employee. The benefits of a plan that covers a person as an employee, who is neither laid off nor retired, or as a dependent of that employee are determined before benefits of a plan that covers that person as a laid-off or retired employee or as a dependent of that employee. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule does not apply.

Subp. 5. Longer/shorter length of coverage. If none of these rules determines the order of benefits, the benefits of the plan that covered an employee, member, or subscriber longer are determined before those of the plan that covered that person for the shorter term.

A. To determine the length of time a person has been covered under a plan, two plans are treated as one if the claimant was eligible under the second plan within 24 hours after the first ended.

B. The start of a new plan does not include:

- (1) a change in the amount of scope of a plan's benefits;
- (2) a change in the entity that pays, provides, or administers the plan's benefits; or
- (3) a change from one type of plan to another, such as from a single employer plan to that of a multiple employer plan.

C. The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group is the date used to determine the length of time the claimant's coverage under the present plan has been in force.

4685.0925 PROCEDURE TO BE FOLLOWED BY SECONDARY PLAN.

Subpart 1. Total allowable expenses. When a plan is a secondary plan under part 4685.0920, its benefits may be reduced so that the total benefits paid or provided by all plans during a claim determination period are not more than total allowable expenses. The amount by which the secondary plan's benefits have been reduced shall be used by the secondary plan to pay allowable expenses, not otherwise paid, that were incurred during the claim determination period by the person for whom the claim is made. As each claim is submitted, the secondary plan determines its obligation to pay for allowable expenses based on all claims that were submitted up to that time during the claim determination period.

Subp. 2. Reducing benefits of a secondary plan. The benefits of the secondary plan shall be reduced when the sum of the benefits that would be payable for the allowable expenses under the secondary plan in the absence of coordination of benefits provisions in parts 4685.0905 to 4685.0950 and the benefits that would be payable for the allowable expenses under the other plans, in the absence of coordination of benefits provisions in parts 4685.0905 to 4685.0950, whether or not claim is made, exceeds those allowable expenses in a claim determination period. In that case, the benefits of the secondary plan shall be reduced so that they and the benefits payable under the other plans do not total more than those allowable expenses.

A. When the benefits of this plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this plan.

B. Item A may be omitted if the plan provides only one benefit, or may be altered to suit the coverage provided.

4685.0930 MISCELLANEOUS PROVISIONS.

Subpart 1. Reasonable cash values of services. A secondary plan that provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, if benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this subpart shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan that provides benefits in the form of services.

Subp. 2. Coordination of benefits with a noncomplying plan. Some plans contain a coordination provision that violates parts 4685.0905 to 4685.0950 by declaring that the plan's coverage is excess to all others, or is always secondary. This occurs because certain plans may not be subject to insurance regulation, or because some group contracts have not yet been conformed with this

regulation under part 4685.0905. A plan may coordinate its benefits with a plan that does not comply with parts 4685.0905 to 4685.0950 according to items A to E.

A. If the complying plan is the primary plan, it must pay or provide its benefits on a primary basis.

B. If the complying plan is the secondary plan, it must pay or provide its benefits first, but the benefits payable are determined as if the complying plan is the secondary plan, and are limited to the complying plan's liability.

C. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall pay benefits as if the benefits of the noncomplying plan are identical to its own. However, the complying plan must adjust its payments when it receives information on the actual benefits of the noncomplying plan.

D. If the noncomplying plan reduces its benefits so that the member receives less in benefits than the member would have received had the complying plan paid benefits as the secondary plan and the noncomplying plan paid benefits as the primary plan, and governing state law allows the right of subrogation set forth below, then the complying plan shall pay to or on behalf of the member an amount equal to the difference.

E. The complying plan shall not pay more than the complying plan would have paid had it been the primary plan less any amount it previously paid. The complying plan is subrogated to all rights of the member against the noncomplying plan. A payment by the complying plan under this item does not prejudice any claim against the noncomplying plan in the absence of subrogation.

Subp. 3. **Allowable expense.** A term such as "usual and customary," "usual and prevailing," or "reasonable and customary" may be substituted for the term "necessary," "reasonable," or "customary." A term such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the coordination provisions apply.

Subp. 4. **Subrogation.** Provisions for coordination or subrogation may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

4685.0935 EFFECTIVE DATE; EXISTING CONTRACTS.

Subpart 1. **Applicability of coordination rules.** Coordination requirements in parts 4685.0905 to 4685.0950 apply to every group contract that provides health care benefits issued on or after the effective date of parts 4685.0905 to 4685.0950.

Subp. 2. **Deadline for compliance.** A group contract that provides health care benefits and that was issued before the effective date of this regulation shall be brought into compliance with this regulation by the later of:

A. the next anniversary date or renewal date of the group contract; or

B. the expiration of any applicable collectively bargained contract under which it was written.

4685.0940 MODEL COORDINATION OF BENEFITS CONTRACT PROVISION.

Subpart 1. **General.** Use of the model coordination of benefits provision for group contracts in part 4685.0950 is subject to subparts 2 and 3 and part 4685.0920.

Subp. 2. **Flexibility.** A group contract's coordination provision does not have to use the words and format shown in part 4685.0950. Changes may be made to fit the language and style of the rest of the group contract or to reflect the difference among plans that provide services, that pay benefits for expenses incurred, and that indemnify. No other substantive changes are allowed.

Subp. 3. **Prohibited coordination and benefit design.**

A. A group contract may not reduce benefits on the basis that:

(1) another plan exists;

(2) a person is or could have been covered under another plan, except with respect to Part B of Medicare; or

(3) a person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

B. No contract may contain a provision that its benefits are excess or always secondary to any plan, except as allowed in parts 4685.0905 to 4685.0950.

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4685.0950 TEXT OF MODEL COORDINATION OF BENEFITS PROVISIONS FOR GROUP CONTRACTS.

Group contracts must contain language on coordination of benefits that is substantially similar to the following model provisions.

COORDINATION OF THE GROUP CONTRACT'S BENEFITS WITH OTHER BENEFITS

I. APPLICABILITY.

(A) This coordination of benefits (COB) provision applies to this plan when an employee or the employee's covered dependent has health care coverage under more than one plan. "Plan" and "this plan" are defined below.

(B) If this coordination of benefits provision applies, the order of benefit determination rules should be looked at first. Those rules determine whether the benefits of this plan are determined before or after those of another plan. The benefits of this plan:

(1) shall not be reduced when, under the order of benefit determination rules, this plan determines its benefits before another plan; but

(2) may be reduced when, under the order of benefits determination rules, another plan determines its benefits first. The above reduction is described in section IV.

II. DEFINITIONS.

A. "Plan" is any of these which provides benefits or services for, or because of, medical or dental care or treatment:

(1) Group insurance or group-type coverage, whether insured or uninsured. This includes prepayment, group practice or individual practice coverage. It also includes coverage other than school accident-type coverage.

(2) Coverage under a governmental plan, or coverage required or provided by law. This does not include a state plan under Medicaid (Title XIX, Grants to States for Medical Assistance Programs, of the United States Social Security Act, as amended from time to time).

Each contract or other arrangement for coverage under (1) or (2) is a separate plan. Also, if an arrangement has two parts and COB rules apply only to one of the two, each of the parts is a separate plan.

B. "This Plan" is the part of the group contract that provides benefits for health care expenses.

C. "Primary Plan/Secondary plan:" The order of benefit determination rules state whether This Plan is a Primary Plan or Secondary Plan as to another plan covering the person.

When This Plan is a Primary Plan, its benefits are determined before those of the other plan and without considering the other plan's benefits.

* When This Plan is a Secondary Plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits.

When there are more than two plans covering the person, This Plan may be a Primary Plan as to one or more other plans, and may be a Secondary Plan as to a different plan or plans.

D. "Allowable Expense" means a necessary, reasonable and customary item of expense for health care; when the item of expense is covered at least in part by one or more plans covering the person for whom the claim is made.

The difference between the cost of a private hospital room and the cost of a semiprivate hospital room is not considered an Allowable Expense under the above definition unless the patient's stay in a private hospital room is medically necessary either in terms of generally accepted medical practice, or as specifically defined in the plan.

When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an Allowable Expense and a benefit paid.

E. "Claim Determination Period" means a calendar year. However, it does not include any part of a year during which a person has no coverage under This Plan, or any part of a year before the date this COB provision or a similar provision takes effect.

III. ORDER OF BENEFIT DETERMINATION RULES.

A. General. When there is a basis for a claim under This Plan and another plan, This Plan is a Secondary Plan which has its benefits determined after those of the other plan, unless:

(1) The other plan has rules coordinating its benefits with those of This Plan; and

(2) Both those rules and This Plan's rules, in Subsection B below, require that This Plan's benefits be determined before those of the other plan.

B. Rules. This Plan determines its order of benefits using the first of the following rules which applies:

(1) Nondependent/Dependent. The benefits of the plan which covers the person as an employee, member or subscriber (that is, other than as a dependent) are determined before those of the plan which covers the person as a dependent.

(2) Dependent Child/Parents not Separated or Divorced. Except as stated in Paragraph (B)(3) below, when This Plan and another plan cover the same child as a dependent of different persons, called "parents:"

(a) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year; but

(b) If both parents have the same birthday, the benefits of the plan which covered one parent longer are determined before those of the plan which covered the other parent for a shorter period of time.

However, if the other plan does not have the rule described in (a) immediately above, but instead has a rule based on the gender of the parent, and if, as a result, the plans do not agree on the order of benefits, the rule in the other plan will determine the order of benefits.

(3) Dependent Child/Separated or Divorced. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:

(a) First, the plan of the parent with custody of the child;

(b) Then, the plan of the spouse of the parent with the custody of the child; and

(c) Finally, the plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expense of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent shall be the Secondary Plan. This paragraph does not apply with respect to any Claim Determination Period or Plan Year during which any benefits are actually paid or provided before the entity has that actual knowledge.

(4) Active/Inactive Employee. The benefits of a plan which covers a person as an employee who is neither laid off nor retired (or as that employee's dependent) are determined before those of a plan which covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this Rule (4) is ignored.

(5) Longer/Shorter Length of Coverage. If none of the above rules determines the order of benefits, the benefits of the plan which covered an employee, member or subscriber longer are determined before those of the Plan which covered that person for the shorter term.

IV. EFFECT ON THE BENEFITS OF THIS PLAN.

A. When This Section Applies. This Section IV applies when, in accordance with Section III "Order of Benefit Determination Rules," This Plan is a Secondary Plan as to one or more other plans. In that event the benefits of This Plan may be reduced under this section. Such other plan or plans are referred to as "the other plans" in B immediately below.

B. Reduction in this Plan's Benefits. The benefits of This Plan will be reduced when the sum of:

(1) The benefits that would be payable for the Allowable Expense under This Plan in the absence of this COB provision;
and

(2) The benefits that would be payable for the Allowable Expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not claim is made; exceeds those Allowable Expenses in a Claim Determination Period. In that case, the benefits of This Plan will be reduced so that they and the benefits payable under the other plans do not total more than those Allowable Expenses.

When the benefits of This Plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of This Plan.

V. RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION.

Certain facts are needed to apply these COB rules. [health maintenance organization] has the right to decide which facts it needs.

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It may get needed facts from or give them to any other organization or person. [health maintenance organization] need not tell, or get the consent of, any person to do this. Each person claiming benefits under This Plan must give [health maintenance organization] any facts it needs to pay the claim.

VI. FACILITY OF PAYMENT.

A payment made under another plan may include an amount which should have been paid under this plan. If it does, [health maintenance organization] may pay that amount to the organization which made that payment. That amount will then be treated as though it were a benefit paid under This Plan. [health maintenance organization] will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

VII. RIGHT OF RECOVERY.

If the amount of the payments made by [health maintenance organization] is more than it should have been paid under this COB provision, it may recover the excess from one or more of:

- A. The persons it has paid or for whom it has paid;
- B. Insurance companies; or
- C. Other organizations.

The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

4685.1910 UNIFORM REPORTING.

Beginning April 1, 1986 1989, health maintenance organizations shall submit as part of the annual report a completed 1985 1988 NAIC Blank, subject to the amendments in parts 4685.1930, 4685.1940, and 4685.1950.

4685.1940 NAIC BLANK FOR HEALTH MAINTENANCE ORGANIZATIONS, REPORT #2: STATEMENT OF REVENUE AND EXPENSES.

Subpart 1. **Separate statements.** The NAIC Blank for health maintenance organizations is amended by requiring the submission of a separate STATEMENT OF REVENUE AND EXPENSES for each of the following:

- A. the health maintenance organization's total operations; and
- B. each demonstration project, as described under *Minnesota Statutes*, section 62D.30; and
- C. any Medicare risk enrollee contracts authorized by section 1876 of the Social Security Act; and
- D. any other Medicare contracts.

Subp. 2. **Other expenses.** Report #2: STATEMENT OF REVENUE AND EXPENSES is amended by adding line 19a, Other Expenses.

Subp. 3. **Additional administrative expenses.** Report #2: STATEMENT OF REVENUE AND EXPENSES is amended by adding line 25a, Additional Administrative Expenses.

Subp. 4. Uncovered expenses. Report #2: STATEMENT OF REVENUE AND EXPENSES is amended by requiring a schedule of uncovered expenses.

4685.1950 NAIC BLANK FOR HEALTH MAINTENANCE ORGANIZATIONS, REPORT #4: ENROLLMENT AND UTILIZATION TABLE.

Subpart 1. **Additional columns.** Report #4: ENROLLMENT AND UTILIZATION TABLE is amended by adding the following columns:

- A. 9a, Total Ambulatory Encounters for Period for Mental health; and
- B. 9b, Total Ambulatory Encounters for Period for Chemical Dependency.

Subp. 2. **Total members at end of period.** The Report #4: ENROLLMENT AND UTILIZATION TABLE is amended by requiring the itemization of Cumulative Member Months for Period by gender and five-year age increments, and Total Members at End of Period by gender, by five-year age increments, and by geographic area county, for the health maintenance organization's Minnesota health maintenance contract enrollment, Medicare risk contract enrollment authorized by section 1876 of the Social Security Act, any other Medicare contract enrollment, and each demonstration project.

Subp. 3. **Type of service.** Report #4: ENROLLMENT AND UTILIZATION TABLE is amended by requiring the itemization of Total Patient Days Incurred, Annualized Hospital Days per 1,000 Enrollees, and Average Length of Stay by five-year age increments and by the following types of service for Minnesota health maintenance contracts, Minnesota health maintenance Medicare risk

contracts, authorized by section 1876 of the Social Security Act, any other Medicare contract enrollment, and each demonstration project:

- A. medical/surgical, in a hospital;
- B. obstetrical/gynecological, in a hospital;
- C. mental health, in a hospital or other health care facility;
- D. chemical dependency, in a hospital or other health care facility; and
- E. other services provided in health care facilities other than hospitals.

4685.1980 QUARTERLY REPORTS.

The following sections of the NAIC Blank shall be submitted as the health maintenance organization's quarterly reports:

- A. NAIC Reports #1, #2, #3; and
- B. a description of the enrollment data included in NAIC report #4.

4685.2100 ANNUAL REPORTS.

In addition to all other information specified in the act, every health maintenance organization shall include in its annual report to the commissioner of health the following:

- A. The results of any and all elections conducted during the preceding calendar year relative to consumer representation on the health maintenance organization's governing body;_
- B. A copy of the health maintenance organization's most recent information summary provided to its enrollees in accordance with *Minnesota Statutes*, section 62D.09;_
- C. A description of the method and results of the system to evaluate the quality of health services. ~~Such~~ The evaluation shall include, but not necessarily be limited to, study of the quality of care for at least one disease condition or age group; ~~and~~ _
- D. A schedule of prepayment charges made to enrollees during the preceding year and any changes which have been implemented or approved up to the reporting date.
- E. A listing of participating entities grouped by county, including the name, complete address, and clinic name, if applicable, of each health care provider and a description of each health care provider's specialty. This listing shall be submitted on forms prescribed by the commissioner.

4685.2250 USE OF FILED MATERIAL.

When a health maintenance organization modifies any documents as described in *Minnesota Statutes*, section 62D.08, subdivision 1, it shall not implement the modifications until notice of the modifications has been filed with the commissioner and the filing is approved, or deemed approved.

4685.3300 PERIODIC FILINGS.

Subpart 1. [See Repealer.]

Subp. 1a. Final form. Copies of all contracts, contract forms or documents and their amendments which are required to be filed with the commissioner according to *Minnesota Statutes*, section 62D.08, subdivision 1, must be submitted in final typewritten form.

Subp. 2. [See Repealer.]

Subp. 2a. Insufficient information. A filing shall be disapproved if supporting information is necessary to determine whether the filed material meets all standards in this chapter or *Minnesota Statutes*, chapter 62D, and supporting information does not accompany the filing, or the supporting information is not adequate.

In the disapproval letter, the commissioner shall specify the supporting information required, and the health maintenance organization may refile the additional information as an amended filing according to the provisions of subpart 6.

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Proposed Rules

Subp. 3. **Filing of contract.** The filing of any contracts or evidences of coverage pursuant to under *Minnesota Statutes*, section 62D.07 or 62D.08, subdivision 1 shall be accompanied by sufficient evidence on cost of services on which copayments are being imposed so as to allow the commissioner of health to determine the impact and reasonableness of the copayment provisions.

Subp. 4. [See Repealer.]

Subp. 4a. Form identification. Each contract, contract form or document and their amendments, filed for approval must contain the health maintenance organization's name, address, and telephone number and must be identified by a unique form number in the lower left hand corner on the first page of the form. If applicable, the health maintenance organization shall identify the filing as either a group or individual contract or evidence of coverage.

Subp. 5. [See Repealer.]

Subp. 5a. Duplicate copies. Each contract form or document and its amendments filed with the commissioner must be submitted in duplicate with a cover letter indicating the name and telephone number of the contact person for the health maintenance organization, and the address to which the commissioner's decision shall be mailed.

Subp. 6. Approval or disapproval. One copy of each contract form or document and its amendments, filed with the commissioner must be stamped approved or disapproved and returned to the health maintenance organization within 30 days after the commissioner's receipt of the filing. If disapproved, the specific reason for denial shall be stated in writing by the commissioner or authorized representative.

Subp. 7. Amended filings. A filing that has been disapproved may be amended and refiled with the commissioner without a filing fee, provided the health maintenance organization submits the amended filing to the commissioner within 30 days after the health maintenance organization receives notice of disapproval. An amended filing shall only address the issues that were the subject of the disapproval. When refiled an amended filing, the health maintenance organization shall use the same identification number that was used on the original filing.

When the health maintenance organization files an amended filing, it shall submit two copies of the amended filing. One copy must be stamped approved or disapproved and returned to the health maintenance organization within 30 days after the commissioner's receipt of the amended filing under subpart 6.

Subp. 8. Endorsements. When filing an endorsement, amendment, or rider, the health maintenance organization shall indicate the form number or numbers with which the endorsement, amendment, or rider will be used.

Subp. 9. Service area expansion. The filing of a request to expand a service area must be accompanied by sufficient supporting documentation including the following:

A. a detailed map with the proposed service area outlined;

B. provider locations charted on the map;

C. a description of driving distances, using major transportation routes, from the borders of the proposed service area to the participating providers;

D. a description of the providers' hours of operation;

E. evidence that the physicians have admitting privileges at the hospitals that enrollees in the new service area will use;

F. a list of providers in the new service area with the name, address, and specialty of every provider;

G. evidence of contractual arrangements with providers. Acceptable evidence is a copy of the signature page of the provider contract, or a sworn affidavit that states that the providers are under contract with the health maintenance organization; and

H. any other information relating to documentation of service area, facility, and personnel availability and accessibility to allow a determination of compliance with part 4685.1000.

Subp. 10. Marked up copies. Any filing that amends or replaces a previously approved filing shall be accompanied by a copy of the previously approved filing with any changes, additions, or deletions noted.

Subp. 11. Notice of participating entity changes. Any notice of an addition or deletion of a participating entity must be submitted on forms prescribed by the commissioner, or approved for use by the commissioner.

REPEALER. *Minnesota Rules*, part 4685.3300, subparts 1, 2, 4, and 5, is repealed.

Department of Health

Proposed Permanent Rules Relating to HMO's Quality Assurance

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter at the Office of Administrative Hearings, Fifth Floor, Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, on Friday May 26, 1989, commencing at 9:00 a.m. Ask the Fifth Floor receptionist for the room assignment. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

This matter will be heard by Administrative Law Judge Jon Lunde, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7645. The rule hearing procedure is governed by *Minnesota Statutes* sections 14.14 to 14.20 (1988) and by *Minnesota Rules*, parts 1400.0200 to 1400.1200 (1987). Questions concerning the rule hearing procedure should be directed to the Administrative Law Judge at the address and telephone number stated above. The proposed rules establish requirements for an HMO's quality assurance program and complaint system.

The proposed rules are authorized by *Minnesota Statutes* sections 62D.20, 62D.03, subdivision 4, 62D.04, subdivision 1, and 62D.11. The adoption of these rules will not require the expenditure of public moneys in excess of \$100,000 by local public bodies in either of the two years following adoption. See, *Minnesota Statutes* section 14.11, subdivision 1. The proposed rules are published below. One free copy of the rules is available on request by contacting:

Dawna L. Tierney
Alternative Delivery Systems
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440
(612) 623-5607

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Agency offices and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Any person may present his or her views on the proposed rule amendments in one or more of the following ways: by submitting written data to the Administrative Law Judge at any time before the close of the hearing; by submitting oral or written data at the hearing; and by submitting written data to the Administrative Law Judge during the comment period following the hearing. The comment period will not be less than five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. The written comments received during the comment period shall be available for review at the Office of Administrative Hearings. Within three business days after the expiration of the comment period, the Agency and interested persons may respond in writing to any new information received during the comment period; however, no additional evidence may be submitted during this three-day period.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written data to Dawna Tierney at the address stated above.

The proposed rule amendments may be modified if the data and views received during the hearing process warrant modification and the modification does not result in a substantial change in the proposed amendments.

Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Agency at any time prior to the filing of the rules with the Secretary of State.

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Proposed Rules

Please be advised that *Minnesota Statutes* Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes* Chapter 10A.01, subd. 11 (1988) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute contains certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5615.

Dated: 30 March 1989

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

4685.0100 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Complaint.** "Complaint" means any written enrollee grievance by a complainant, as defined in subpart 4a, against a health maintenance organization or provider arising out of the provision of health care services, and which has been filed submitted by an enrollee or his representative in accordance with parts 4685.1400 to 4685.2000 and is not or is not yet the cause or subject of an enrollee election to litigate a complainant under part 4685.1700 and which is not under litigation. If the complaint is from an applicant, the complaint must relate to the application. If the complaint is from a former enrollee, the complaint must relate to services received during the time the individual was an enrollee.

Examples of complaints are the scope of coverage for health care services; denials of service; eligibility issues; denials, cancellations, or nonrenewals of coverage; administrative operations; and the quality, timeliness, and appropriateness of health care services rendered.

Subp. 4a. **Complainant.** "Complainant" means an enrollee, applicant, or former enrollee, or anyone acting on behalf of an enrollee, applicant, or former enrollee who submits a complaint, as defined in subpart 4.

Subp. 5. to 8. [Unchanged.]

Subp. 8a. **Immediately and urgently needed service.** "Immediately and urgently needed service" means a service that, if not provided promptly, could reasonably be expected to result in serious jeopardy to mental or physical health, serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.

Subp. 9. to 15. [Unchanged.]

QUALITY ASSURANCE

4685.1100 QUALITY EVALUATION.

Arrangements for an ongoing evaluation of the quality of health care shall include, but not necessarily be limited to, provisions for:

A. meeting the standards of quality review set forth in the Social Security Amendments of 1972, United States Code, title 42, section 1320(e); and

B. an ongoing internal peer review system; and

C. a defined set of standards and procedures in selecting providers to serve enrollees, and as to the selection of individual providers, the retention of records relative to the number of persons scrutinized in this system and the number of providers screened who were rejected under the described procedures; and

D. The commissioner of health or each health maintenance organization may also conduct enrollee surveys of the enrollees of each health maintenance organization to ascertain enrollee satisfaction as a part of the overall quality evaluation program.

4685.1105 DEFINITIONS.

Subpart 1. **Scope.** The following definitions apply to parts 4685.1100 to 4685.1130, unless the context clearly requires another meaning.

Proposed Rules

Subp. 2. Criteria. “Criteria” means standards that can be used to determine attainment of quality health care. Criteria may be explicit or implicit. Explicit criteria are a set of norms or indicators that are developed by health care professionals and are predetermined. Implicit criteria are the judgments of health care professionals regarding information related to quality of care.

Subp. 3. Data. “Data” refers to the following and similar types of information: patient charts, reports, records, enrollee surveys, staff surveys, staff concerns, performance appraisals, research, financial information, observation, professional organization credentialing reviews, and complaints registered.

Subp. 4. Focused study. “Focused study” means a study that begins with a hypothesis and includes systematic data collection, to provide information to identify or resolve problems or potential problems with quality of care. Focused studies include a written methodology and corrective action strategies when appropriate.

Subp. 5. Monitoring. “Monitoring” means collection of information relating to quality of care. Monitoring may be in the form of prospective, concurrent, or retrospective audits; reports; surveys; observation; interviews; complaints; peer review; or focused studies.

Subp. 6. Outcome. “Outcome” means the end result of care, or a change in patient health status. Examples of outcomes of care include a hospital admission or readmission, an advanced stage of a disease, recovery, alleviation of symptoms, or death.

Subp. 7. Process. “Process” means the nature of events and activities in the delivery of health care.

Subp. 8. Structure. “Structure” means the institutional or organizational aspects of care. Structure includes the organizing framework that brings the provider and patient together, organizational processes, policies, financial resources, and staff qualifications.

4685.1110 PROGRAM.

Subpart 1. Written quality assurance plan. The health maintenance organization shall have a written quality assurance plan that includes the following:

- A. mission statement;
- B. philosophy;
- C. goals and objectives;
- D. organizational structure;
- E. staffing and contractual arrangements;
- F. a system for communicating information regarding quality assurance activities;
- G. the scope of the quality assurance program activities; and
- H. a description of peer review activities.

Subp. 2. Documentation of responsibility. Quality assurance authority, function, and responsibility shall be delineated in specific documents, including documents such as bylaws, board resolutions, and provider contracts. These documents shall demonstrate that the health maintenance organization has assumed ultimate responsibility for the evaluation of quality of care provided to enrollees, and that the health maintenance organization’s governing body has periodically reviewed and approved the quality assurance program activities.

Subp. 3. Appointed entity. The governing body shall designate a quality assurance entity that may be a person or persons to be responsible for operation of quality assurance program activities. This entity shall maintain records of its quality assurance activities and shall meet with the governing body at least quarterly.

Subp. 4. Physician participation. A physician or physicians designated by the governing body shall advise, oversee, and actively participate in the implementation of the quality assurance program.

Subp. 5. Staff resources. There must be sufficient administrative and clinical staff with knowledge and experience to assist in carrying out quality assurance activities. In determining what is sufficient staff support, the commissioner shall consider the number of enrollees, types of enrollees, numbers of providers, the variety of health care services offered by the health maintenance organization, the organizational structure of the health maintenance organization, and the quality assurance staffing levels used by other health care organizations that perform similar health care functions.

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Proposed Rules

Subp. 6. Delegated activities. The health maintenance organization may delegate quality assurance activities to providers, review organizations, or other entities. If the health maintenance organization contracts with another organization to conduct quality assurance activities, the health maintenance organization shall have review and reporting requirements developed and implemented to ensure that the organization contracting with the health maintenance organization is fulfilling all delegated quality assurance responsibilities.

Subp. 7. Information system. The data collection and reporting system shall support the information needs of the quality assurance program activities. The quality assurance program shall have prompt access to necessary medical record data including data by diagnoses, procedure, patient, and provider.

Subp. 8. Program evaluation. An evaluation of the overall quality assurance program shall be conducted at least annually. The results of this evaluation shall be communicated to the governing body. The written quality assurance plan shall be amended when there is no clear evidence that the program continues to be effective in improving care.

Subp. 9. Complaints. The quality assurance program shall conduct ongoing evaluation of enrollee complaints that are related to quality of care and that are registered with the complaint system according to the steps in part 4685.1120. The data on complaints related to quality of care shall be reported to the appointed quality assurance entity at least quarterly.

Subp. 10. Utilization review. The data from the health maintenance organization's utilization review activities shall be reported to the quality assurance program for analysis at least quarterly.

Subp. 11. Provider credentials and selection. The health maintenance organization shall have policies and procedures for provider selection and credentials. The health maintenance organization shall have policies and procedures for contracting with or hiring staff and providers that are accredited or appropriately trained for their positions or, as in the case of durable medical equipment, offer products that meet standards generally accepted by the medical community.

Subp. 12. Qualifications. Any health maintenance organization staff or contractees conducting quality assurance activities must be qualified by virtue of training and experience.

Subp. 13. Medical records. The quality assurance entity appointed under subpart 3 shall conduct ongoing evaluation of medical records.

A. The health maintenance organization shall implement a system to assess that medical records are maintained with timely, legible, and accurate documentation of all patient interactions. Documentation must include information regarding patient history, health status, diagnosis, treatment, and referred service notes.

B. The health maintenance organization shall maintain a medical record retrieval system that ensures that medical records, reports, and other documents are readily accessible to the health maintenance organization.

4685.1115 ACTIVITIES.

Subpart 1. Ongoing quality evaluation. The health maintenance organization, through the health maintenance organization staff or contracting providers, shall conduct quality evaluation activities according to the steps in part 4685.1120. The quality evaluation activities must address each of the components of the health maintenance organization described in subpart 2.

Subp. 2. Scope. The components of the health maintenance organization subject to evaluation include the following:

A. Clinical components that include the following services:

- (1) acute hospital services;
- (2) ambulatory health care services;
- (3) emergency services;
- (4) mental health services;
- (5) preventive health care services;
- (6) pharmacy services;
- (7) chemical dependency services;
- (8) other professional health care services provided to enrollees, such as chiropractic, occupational therapy, and speech therapy;
- (9) home health care, as applicable;
- (10) durable medical equipment, as applicable; and
- (11) skilled nursing care, as applicable.

B. Organizational components which are the aspects of the health plan that affect accessibility, availability, comprehensiveness, and continuity of health care, and which include the following:

- (1) referrals;
- (2) case management;
- (3) discharge planning;
- (4) appointment scheduling and waiting periods for all types of health care of providers;
- (5) second opinions, as applicable;
- (6) prior authorizations, as applicable;
- (7) provider reimbursement arrangements; and
- (8) other systems, procedures, or administrative requirements used by the health maintenance organization that affect delivery of care.

C. Consumer components which are the enrollees' perceptions regarding all aspects of the quality of the health plan's services, and which include:

- (1) enrollee surveys;
- (2) enrollee complaints; and
- (3) enrollee written or verbal comments or questions.

4685.1120 QUALITY EVALUATION STEPS.

Subpart 1. Problem identification. The health maintenance organization shall identify the existence of actual or potential quality problems or identify opportunities for improving care through:

A. ongoing monitoring of process, structure, and outcomes of patient care or clinical performance; and

B. evaluation of the data collected from ongoing monitoring activities to identify problems or potential problems in patient care or clinical performance using criteria developed and applied by health care professionals.

Subp. 2. Problem selection. The health maintenance organization shall select problems or potential problems for corrective action or focused study based on the prevalence of the problem and its impact on patient care and professional practices.

Subp. 3. Corrective action. The health maintenance organization shall identify and document any recommendations for corrective action designed to address the problem. The documentation of corrective action shall include:

A. measurable objectives for each action, including the degree of expected change in persons or situations;

B. time frames for corrective action; and

C. persons responsible for implementation of corrective action.

Subp. 4. Evaluation of corrective action. The quality assurance entity shall monitor the effectiveness of corrective actions until problem resolution occurs. Results of the implemented corrective action must be documented and communicated to the governing body and involved providers.

4685.1125 FOCUSED STUDY STEPS.

Subpart 1. Focused studies. As part of its overall quality evaluation activities, the health maintenance organization shall conduct focused studies to acquire information relevant to quality of care. The focused study must be directed at problems, potential problems, or areas with potential for improvements in care. The focused studies shall be included as part of the health maintenance organization's problem identification and selection activities.

Subp. 2. Topic identification and selection. The health maintenance organization shall select topics for focused study that must be justified based on any of the following considerations:

A. areas of high volume;

B. areas of high risk;

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C. areas where problems are expected or where they have occurred in the past;

D. areas that can be corrected or where prevention may have an impact; and

E. areas that have potential adverse health outcomes.

Subp. 3. Study. The health maintenance organization shall document the study methodology employed, including:

A. the focused study question;

B. the sample selection;

C. data collection;

D. criteria; and

E. measurement techniques.

Subp. 4. Corrective actions. Any corrective actions implemented to address problems identified through focused studies shall follow the requirements defined in part 4685.1120, subparts 3 and 4.

Subp. 5. Other studies. An activity in which the health maintenance organization participates that meets any of the criteria in subparts 2 to 4 may satisfy in part or in total the focused study requirements. Examples of other activities that may satisfy the focused study requirements include external audits conducted by the professional review organization or other review organizations, multiple health plan surveys, or quality assurance studies across the community.

4685.1130 FILED WRITTEN PLAN AND WORK PLAN.

Subpart 1. Written plan. The health maintenance organization shall file its written quality assurance plan, as described in part 4685.1110, subpart 1, with the commissioner, before being granted a certificate of authority.

Subp. 2. Annual work plan. The health maintenance organization shall annually file a proposed work plan with the commissioner on or before November 1 of every year. The proposed work plan must meet the requirements of items A and B.

A. The work plan shall give a detailed description of the proposed quality evaluation activities that will be conducted in the following year. The quality evaluation activities shall address the components of the health care delivery system defined in part 4685.1115, subpart 2. The quality evaluation activities shall be conducted according to the steps in part 4685.1120.

In determining the level of quality evaluation activities necessary to address each of the components of the health plan, the commissioner shall consider the number of enrollees, the number of providers, the age of the health plan, and the level of quality evaluation activities conducted by health care organizations that perform similar functions.

B. The work plan shall give a description of the proposed focused studies to be conducted in the following year. The focused studies shall be conducted according to the steps in part 4685.1125. The description of the proposed studies shall include the following elements:

(1) topic to be studied;

(2) rationale for choosing topic for study according to part 4685.1125, subpart 1;

(3) benefits expected to be gained by conducting the study;

(4) study methodology;

(5) sample size and sampling methodology;

(6) criteria to be used for evaluation; and

(7) approval by the health maintenance organization's medical director or qualified director of health services designated by the governing body.

Each health maintenance organization shall annually complete a minimum of three focused studies. The focused study sample shall be representative of the total health maintenance organization population.

Subp. 3. Amendments to plan. The health maintenance organization may change its written quality assurance plan and proposed work plan by filing notice with the commissioner 30 days before modifying its quality assurance program or activities. If the commissioner does not disapprove of the modifications within 30 days of submission, the modifications are considered approved.

Subp. 4. Plan review. The commissioner shall review the health maintenance organization's annual proposed work plan to determine if it meets the criteria established in parts 4685.1100 to 4685.1130. If the commissioner does not disapprove the plan within 30 days of its submission, it is considered approved.

4685.1700 REQUIREMENTS FOR COMPLAINT SYSTEM.

Subpart 1. Health maintenance organization's internal complaint system. A health maintenance organization organization's internal complaint system procedures for the resolution of written, enrollee complaints concerning the provision of health care services shall be is considered reasonable and acceptable to the commissioner of health if they: the following procedures are followed.

A. establish mechanisms through which written enrollee complaints may be filed by and presented by the enrollee or his authorized representative, and considered and retained by the health maintenance organization; If a complainant orally notifies a health maintenance organization that the complainant wishes to register a complaint, the health maintenance organization shall make available a complaint form that includes:

- (1) the telephone number of member services, or other departments, or persons equipped to advise complainants;
- (2) the address to which the form must be sent;
- (3) a description of the health maintenance organization's internal complaint system and time limits applicable to that system; and
- (4) the telephone number to call to inform the commissioner of health.

B. A health maintenance organization shall provide for informal discussions, consultations, or conferences, or correspondence between the enrollee complainant and a person with the authority to resolve or recommend the resolution of the complaint within 30 days after it is filed; Within 30 days after receiving the written complaint, the health maintenance organization must notify the complainant in writing of its decision and the reasons for it. If the decision is partially or wholly adverse to the complainant, the notification must advise the complainant of the right to appeal according to item C, including the complainant's option for a written reconsideration or a hearing, the right to arbitrate according to item D, and the right to notify the commissioner. If the health maintenance organization cannot make a decision within 30 days due to circumstances outside the control of the health maintenance organization, the health maintenance organization may take up to an additional 14 days to notify the complainant provided the health maintenance organization informs the complainant in advance of the extension of the reasons for the delay.

C. If a complainant notifies the health maintenance organization in writing of the complainant's desire to appeal the health maintenance organization's initial decision, the health maintenance organization shall provide for hearings: the complainant the option of a hearing or a written reconsideration.

- (1) at which any complaint not otherwise resolved shall be considered within 90 days after it is filed;
- (2) at which If the complainant chooses a hearing, a person or persons with authority to resolve or recommend the resolution of the complaint shall preside, but the person or persons presiding must not be solely the same person or persons who made the decision under item B;

(2) if the complainant chooses a written reconsideration, a person or persons with authority to resolve the complaint shall investigate the complaint, but the person or persons investigating must not be solely the same person or persons who made the decision under item B;

(3) which hearings and written reconsiderations shall include the receipt of testimony, correspondence, explanations, or other information from enrollees the complainant, staff persons, administrators, providers, or other persons, as is deemed necessary by the person or persons investigating the complaint in the case of a reconsideration, or presiding person or persons in the case of a hearing for a fair appraisal and resolution of the complaint; and

(4) from which concise in the case of a written reconsideration, a written notice of all findings shall be given the complainant within 30 days of the conclusion of any such hearing health maintenance organization's receipt of the complainant's written notice of appeal; and

(5) in the case of a hearing, concise written notice of all findings shall be given the complainant within 45 days after the health maintenance organization receives the complainant's written notice of appeal.

D. A health maintenance organization shall provide the opportunity for impartial arbitration of any complaint which is unresolved by the mechanisms set forth in item B pursuant to a procedure approved by the commissioner subject to Minnesota Statutes, chapter 572. The impartial arbitration procedure shall specify the method by which the neutral arbitrator(s) shall be mutually selected by the parties to the arbitration, the costs of the procedure and how they shall be borne. The arbitrator(s) shall

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be required to render an award within 30 days from the date of closing the hearings unless otherwise mutually agreed by the parties, and. Arbitration must be conducted according to the American Arbitration Association Minnesota Health Maintenance Organization Arbitration Rules, as amended and in effect November 1, 1988. These rules are incorporated by reference and are available for inspection at the State Law Library, 117 University Avenue, Saint Paul, Minnesota 55155.

The American Arbitration Association Minnesota Health Maintenance Organization Arbitration Rules are subject to changes by the American Arbitration Association. Only those rules in effect November 1, 1988, are incorporated by reference.

If the subject of the complaint relates to a malpractice claim, the complaint shall not be subject to arbitration.

The judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof in accordance with under Minnesota Statutes, sections 572.16 and 572.21.

E. provide for giving notice to all enrollees of the existence and operation of said complaint system; and If a complaint involves a dispute about an immediately and urgently needed service that the health maintenance organization claims is experimental, not medically necessary, or otherwise not generally accepted by the medical profession, and that the health maintenance organization has not yet provided to the complainant, the procedures in items A to D do not apply. The health maintenance organization must use an expedited dispute resolution process appropriate to the particular situation. Within 24 hours after the complaint is registered, the health maintenance organization shall notify the commissioner of the nature of the complaint, the decision of the health maintenance organization, and a description of the review process. For purposes of this item, complaints need not be in writing.

F provide for any other procedures approved by the commissioner of health A health maintenance organization must notify enrollees of the existence of its complaint system, including the procedure in item E, and must clearly and thoroughly describe the procedural steps of that system in:

- (1) the evidence of coverage required by Minnesota Statutes, section 62D.07; and
- (2) enrollee handbooks, if used by the health maintenance organization.

Subp. 2. Dispute resolution by commissioner. A complainant may at any time submit a complaint to the commissioner, who may either independently investigate the complaint or refer it to the health maintenance organization for further review. If the commissioner refers the complaint to the health maintenance organization, the health maintenance organization must notify the commissioner in writing of its decision and the reasons for the decision within 30 days after receiving the commissioner's initial correspondence to the health maintenance organization, unless otherwise ordered by the commissioner. If the health maintenance organization cannot make a decision within 30 days due to circumstances outside its control, the health maintenance organization may take up to an additional 14 days to notify the commissioner if the health maintenance organization notifies the commissioner in advance of the extension and the reasons for the delay. If the health maintenance organization's decision is partially or wholly adverse to the complainant, the complainant may pursue a hearing or written reconsideration and arbitration according to subpart 1, items C and D. After investigating a complaint, or reviewing the health maintenance organization's decision, the commissioner may order a remedy, including one or more of the following:

- A. imposition of a fine according to Minnesota Statutes, section 62D.17;
- B. an order to provide a service; or
- C. an order to reimburse an enrollee for a service already provided that the enrollee has paid for.

4685.1900 RECORDS OF COMPLAINTS.

Subpart 1. Record requirements. Every health maintenance organization shall maintain a record of each complaint filed with it during the prior three five years. The record shall, where applicable, include:

- A. the complaint or a copy thereof of the complaint and the date of its filing;
 - B. all correspondence relating to informal discussions, consultations, or conferences held relative to each complaint; a brief written summary of the outcome of all informal discussions, consultations, or conferences, or correspondence held relative to each complaint and that includes the date or dates on which each such informal discussion, consultation, or conference, or correspondence occurred and their outcomes. Such summary shall include an acknowledgment by those participating in the form of their signatures;
 - C. the date or dates of any hearing and a copy of the hearing or reconsideration findings given the enrollee complainant;
 - D. the dates of commencement and conclusion of another processing conducted in accordance with part 4685.1800; and a copy of the concise written record of all findings and recommendations arising therefrom, which record shall include an acknowledgment by those participating in the form of their signatures;
 - E. the date of submission of any complaint to arbitration; a copy of the arbitrator's decision; and the date of the decision;
- and

F E. a brief written summary, including the filing date, of each complaint which becomes a subject of litigation; a brief written summary, with dates, of the findings or outcome of any prior processing held relative to the complaint; and a brief written statement describing the outcome of the complaint or claim as determined in litigation all documents which have been filed with a court relating to a complaint and all orders and judgments of a court relating to the complaint.

Subp. 2. Log of complaints. A health maintenance organization shall keep a single, ongoing log of complaints. The log shall contain the date the complaint was initially submitted; the name, address, and telephone number of the complainant; and the location of the complainant's complaint records.

4685.2100 ANNUAL REPORTS.

In addition to all other information specified in the act, every health maintenance organization shall include in its annual report to the commissioner of health the following:

A. the results of any and all elections conducted during the preceding calendar year relative to consumer representation on the health maintenance organization's governing body;

B. a copy of the health maintenance organization's most recent information summary provided to its enrollees in accordance with *Minnesota Statutes*, section 62D.09; and

C. ~~a description of the method and results of the system to evaluate the quality of health services. Such evaluation shall include, but not necessarily be limited to, study of the quality of care for at least one disease condition or age group; and~~

~~D. a schedule of prepayment charges made to enrollees during the preceding year and any changes which have been implemented or approved up to the reporting date.~~

REPEALER. Minnesota Rules, part 4685.1800 is repealed.

Department of Health

Proposed Permanent Rules Relating to WIC Program

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Chesley room, Minnesota Department of Health building, 717 Delaware Street NE, Minneapolis, on May 25th, 1989 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HEALTH. To verify whether a hearing will be held, please call the Department of Health between May 17 and May 24, 1989 at (612) 623-5266.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period.

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During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rules will govern how local agencies participate in the WIC program, make minor changes to the minimum in-stock requirements of vendors and add a section governing which foods are approved for distribution under the WIC program.

Individuals and associations affected by the proposed permanent rules include Minnesota food retailers, pharmacies, WIC local agencies, and women, infants and children who are participating in the WIC program.

Proposed rule provisions include:

- definitions of terms used in the rules;
- notice of availability of WIC program funds;
- application for WIC program funds;
- agency eligibility criteria;
- agency application review and approval;
- disqualification of local agencies;
- local agency contracts and agreements;
- local agency staff qualifications;
- authorized participation levels;
- administrative funding;
- reporting requirements;
- evaluations and monitoring of local agencies;
- nutrition education plans and implementation;
- changes in minimum in-stock requirements for vendors; and approved foods.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 145.891 to 145.897, the Maternal and Child Nutrition Act of 1975, as amended through March, 1989.

Adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption under the requirements of *Minnesota Statutes*, section 14.11.

These proposed rules may impact small business as defined in *Minnesota Statutes*, section 14.115, subdivision 1. Pursuant to *Minnesota Statutes*, section 14.115, subdivision 2 methods were considered to reduce the impact of the proposed rules on small business. These methods are discussed in the Statement of Need and Reasonableness pertaining to the proposed rules.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Pati Maier, Department of Health, 717 Delaware Street SE, Mpls. MN 55440.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Pati Maier, (612) 623-5266.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, Chapter 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 20 March 1989

Sister Mary Madonna Ashton
Commissioner of Health

Rules as Proposed

VENDORS

4617.0002 DEFINITIONS.

Subpart 1. **Scope.** ~~The terms~~ As used in this chapter, the following terms have the meanings given them in this part.

Subp. 2. **Agency.** "Agency" refers to a public or private, nonprofit health or human service agency.

Subp. 3. **Child Breastfeeding woman.** ~~"Child" means a person who has had a first birthday but who has not had a fifth birthday.~~ "Breastfeeding woman" means a woman who is breastfeeding her infant, up to one year postpartum.

Subp. 4. **Categorical status.** "Categorical status" means the status of a person as a pregnant woman, breastfeeding woman, postpartum woman, infant, or child.

Subp. 5. **Certification.** "Certification" means the process a local agency uses to determine and document an individual's eligibility for the WIC program.

Subp. 6. **Certifier.** "Certifier" means a person who meets the requirements of part 4617.0035, subpart 3.

Subp. 7. **Child.** "Child" means a person whose birthday is on the day of certification or who has had a first birthday but who has not had a fifth birthday.

Subp. 4 8. **Clinic area.** "Clinic area" means a town or city in which a person is certified.

Subp. 5. ~~Code of Federal Regulations.~~ "Code of Federal Regulations" refers to those regulations as amended to January 1989, unless otherwise noted.

Subp. 6 9. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Health or the commissioner's designated representative.

Subp. 10. **Community health board.** "Community health board" means a board established, operating, and eligible for a subsidy under Minnesota Statutes, sections 145A.09 to 145A.13.

Subp. 11. **Community health service agency.** "Community health service agency" means an agency established by and operating under the direction of a community health board as defined in Minnesota Statutes, section 145A.02, subdivision 5.

Subp. 12. **Competent professional authority.** "Competent professional authority" means a person who meets the requirements of part 4617.0035, subpart 1, and who is qualified to determine nutritional risk, assign applicant priorities, prescribe supplemental foods, and provide a nutrition education contact.

Subp. 13. **Dietetic technician.** "Dietetic technician" means a person who is registered or is eligible to be registered as a dietetic technician by the American Dietetic Association and who meets the requirements of part 4617.0035, subpart 4.

Subp. 14. **Dietitian.** "Dietitian" means a person who is registered as a dietitian by the American Dietetic Association.

Subp. 15. **Health service agency.** "Health service agency" means a public or private nonprofit agency whose primary purpose is to provide services designed to improve and protect an individual's health.

Subp. 16. **Home economist.** "Home economist" means a person who has a bachelor's or master's degree in home economics from a college or university accredited by the Association of Colleges and Schools and who meets the requirements of part 4617.0035, subpart 5.

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Subp. 17. Human service agency. “Human service agency” means a public or private nonprofit agency whose primary purpose is to provide services that include correctional, educational, employment, mental health, or social services.

Subp. 18. Individual care plan. “Individual care plan” means a plan established under part 4617.0062, subpart 3.

Subp. 19. Infant. “Infant” means a person who is under one year of age.

Subp. 20. Licensed practical nurse. “Licensed practical nurse” means a person who is licensed to provide health services in Minnesota under *Minnesota Statutes*, sections 148.29 to 148.297, and who meets the requirements of part 4617.0035, subpart 6.

Subp. 21. Local agency. “Local agency” has the meaning given it in *Code of Federal Regulations*, title 7, section 246.2.

Subp. 22. Medical consultant. “Medical consultant” means a physician employed by or contracting with the commissioner to provide medical guidance to the WIC program.

Subp. 23. Migrant farmworker. “Migrant farmworker” has the meaning given it in *Code of Federal Regulations*, title 7, section 246.2.

Subp. 24. Migrant service agency. “Migrant service agency” means a local agency approved by the commissioner to serve only migrant farmworkers and to administer the WIC program for part of a year.

Subp. 25. Nutrition education coordinator. “Nutrition education coordinator” means a competent professional authority who is a dietitian, home economist, nutritionist, or registered nurse who performs the duties under part 4617.0055, subpart 9.

Subp. 26. Nutritionist. “Nutritionist” means a person who has a bachelor’s or master’s degree in nutritional sciences, community nutrition, clinical nutrition, dietetics, or public health nutrition from a college or university accredited by the Association of Colleges and Schools.

Subp. 27. Ongoing, routine obstetric care. “Ongoing, routine obstetric care” means a comprehensive continuation of care from antepartum care through a postpartum review and examination, as provided in the *Standards for Obstetric-Gynecologic Services, American College of Obstetricians and Gynecologists*, sixth edition, 1985, chapter 2. This document is incorporated by reference, is not subject to frequent change, can be found in the Minnesota Department of Health library, and is available through the Minitex interlibrary loan system.

Subp. 28. Ongoing, routine pediatric care. “Ongoing, routine pediatric care” means a comprehensive continuum of care from birth through five years of age that includes physical examinations at intervals, immunizations, counseling, health education, and a periodic review of health history according to the standards of care in the *Guidelines for Health Supervision, American Academy of Pediatrics*, first edition (1985). This document is incorporated by reference, is not subject to frequent change, can be found in the Minnesota Department of Health library, and is available through the Minitex interlibrary loan system.

Subp. 29. Participation level. “Participation level” means the number of participants who are issued a voucher or are given food by a local agency during a period specified by the commissioner.

Subp. 30. Person. “Person” includes an individual, partnership, joint venturer, association, corporation or otherwise organized business entity, or combination of them.

Subp. 31. Pharmacy vendor. “Pharmacy vendor” means a vendor that is also a business registered by the Minnesota Board of Pharmacy in which prescriptions, drugs, medicines, chemicals, and poisons are compounded, dispensed, vended, or retailed.

Subp. 32. Physician. “Physician” means a person who is licensed to provide health services within the scope of that person’s profession under *Minnesota Statutes*, chapter 147.

Subp. 33. Physician’s assistant. “Physician’s assistant” means a person who is registered as a physician’s assistant by the Minnesota Board of Medical Examiners and who meets the requirements of part 4617.0035, subpart 7.

Subp. 34. Postpartum woman. “Postpartum woman” means a woman up to six months after termination of her pregnancy.

Subp. 35. Pregnant woman. “Pregnant woman” means a woman carrying one or more embryos or fetuses in the uterus.

Subp. 36. Private physician. “Private physician” means a physician or group of physicians who have contracted with a local agency to provide ongoing, routine pediatric or obstetric care to participants.

Subp. 37. Proxy. “Proxy” means a person other than a participant who obtains vouchers from a local agency or buys authorized foods for the participant and who is designated as a proxy by a participant.

Subp. 38. Registered nurse. “Registered nurse” means a person who is licensed to provide health services within the scope of that person’s profession under *Minnesota Statutes*, sections 148.171 to 148.285.

Subp. 39. Restricted pharmacy vendor. “Restricted pharmacy vendor” means a vendor that meets the requirements of part 4617.0065, subpart 2, item B, subitem (2), and who does not meet the requirements of part 4617.0065, subpart 2, item B, subitem (1).

Subp. ~~42~~ **40. Retail food vendor.** "Retail food vendor" means a vendor that is a grocer located in Minnesota whose primary purpose is to sell food at retail directly to the consumer according to *Minnesota Statutes*, section 28A.04.

Subp. 41. Transfer agency. "Transfer agency" means a local agency that is approved according to part 4617.0020, subpart 3, to serve a geographic area or special population that was previously served by another local agency.

Subp. ~~43~~ **42. Vendor.** "Vendor" means a person that owns a pharmacy or food business for which a vendor stamp has been issued by the commissioner and that is in compliance with this chapter.

Subp. ~~44~~ **43. Vendor stamp.** "Vendor stamp" means a stamp with a number on the imprint face of the stamp that is issued by the commissioner to a vendor to authorize that vendor to accept WIC vouchers.

Subp. ~~45~~ **44. Voucher.** "Voucher" means a written authorization from the commissioner for a vendor to issue food to a participant that is specified on the voucher by the commissioner and that may be exchanged by a vendor for cash under the WIC program.

Subp. ~~46~~ **45. WIC program.** "WIC program" means the Special Supplemental Food Program for Women, Infants, and Children administered by the United States Department of Agriculture under *United States Code*, title 42, section 1786, ~~as amended to January 1988.~~

Rules as Proposed (all new material)

LOCAL AGENCIES

4617.0005 NOTICE OF AVAILABILITY OF WIC PROGRAM FUNDS.

At least once every two federal fiscal years beginning October 1, 1987, the commissioner shall send a notice of availability of WIC program funds to each agency that has asked the commissioner for the notice and to other interested agencies. The notice must also be published in the *State Register* at least 30 days before the application deadline given in the notice. The notice must include:

- A. a description of the WIC program;
- B. the format of the notice required under part 4617.0010, item A, and the date by which that notice must be submitted to the department;
- C. the date by which the application required under part 4617.0020, subpart 2, must be submitted to the department;
- D. the timetable for the commissioner's review of applications; and
- E. a description of the process used to authorize an agency to become a local agency under part 4617.0020.

4617.0010 APPLICATION FOR WIC PROGRAM FUNDS.

An agency shall apply for WIC program funds according to items A to E.

A. An agency shall notify the commissioner in writing that it intends to apply for WIC program funds. The agency must submit the notice of intent on a format and by a date consistent with a notice of availability published under part 4617.0005.

B. Upon receiving an agency's notice of intent to apply for WIC program funds, the commissioner shall send to that agency an application form and instructions on how to complete the form.

C. An agency shall apply to administer the WIC program for a geographic area or a special population. A local agency shall not serve a participant who does not live in the geographic area or who is not a member of the special population designated on the application.

D. An agency shall submit an application form for WIC program funds no later than the date specified under part 4617.0005, item C. An application form must include the name and address of the applicant and must document that the applicant can meet the eligibility criteria under part 4617.0015.

E. If the commissioner determines that an application is incomplete, the commissioner shall request in writing that the agency submit the information needed to complete the application within 15 days after receiving that application. The commissioner shall not authorize an agency to administer the WIC program if it fails to submit the requested additional information.

4617.0015 AGENCY ELIGIBILITY CRITERIA.

To be eligible for WIC program funds an agency must be able to:

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- A. provide ongoing, routine pediatric care and ongoing, routine obstetric care directly to recipients, through written agreements with other agencies or private physicians, or through referral to a health provider;
 - B. provide staff sufficient in number and training to perform the duties that must be performed by a competent professional authority; a nutrition education coordinator; a coordinator of the WIC program; a person authorized to legally obligate the local agency; and a fiscal manager for the local agency; and to perform certification, voucher issuance, and nutrition education services for which a competent professional authority is not required;
 - C. provide fiscal and operational systems that are consistent with *Code of Federal Regulations*, title 7, part 3015;
 - D. provide clinic sites that are located near major concentrations of participants and that are accessible to the handicapped;
- and
- E. meet the definition of local agency under *Code of Federal Regulations*, title 7, section 246.2.

4617.0020 AGENCY APPLICATION REVIEW AND APPROVAL.

Subpart 1. **General procedure.** The commissioner shall authorize an agency to administer the WIC program as a local agency by following in order the steps in subparts 2 to 7.

Subp. 2. **Agency application; review.** The commissioner shall, according to the timetable in the notice of availability required by part 4617.0005, review an application to determine whether the agency applicant meets the eligibility criteria in part 4617.0015 and whether the application was submitted according to part 4617.0010.

Subp. 3. **Agency application; approval and disapproval.** The commissioner shall approve or disapprove an application according to items A to C and subpart 4.

A. The commissioner shall approve only one application for each geographic area or special population.

B. If an application does not document that the agency meets the eligibility criteria in part 4617.0015 or is not submitted according to part 4617.0010, the commissioner shall disapprove the application by not authorizing the applicant to become a local agency.

C. Except as provided in subpart 4, the commissioner shall approve an application and authorize the applicant to become a local agency if the application was submitted according to part 4617.0010 and if the application documents that the applicant meets the eligibility criteria under part 4617.0015.

Subp. 4. Performance record determination.

A. If two or more applications to serve the same geographic area or special population could be approved under subpart 3, item C, the commissioner shall, according to subparts 8 and 9, determine whether one or more of the agencies has a poor performance record.

B. If all of the competing agencies have a poor performance record, the commissioner shall approve the application from the agency with the highest number of points assigned under subparts 8 and 9.

C. If only one of the competing agencies does not have a poor performance record according to subparts 8 and 9, the commissioner shall approve the application from that agency only.

D. If two or more competing agencies do not have a poor performance record according to subparts 8 and 9, the commissioner shall approve the application from the agency that is assigned the highest priority under subpart 6, or, if indicated by subpart 6, item D, the highest subpriority under subpart 7.

Subp. 5. **Affirmative action plan.** The commissioner shall establish an affirmative action plan according to *Code of Federal Regulations*, title 7, section 246.4, paragraph (a)(5). The plan must include a list of unserved areas and unserved populations in order of relative need for WIC program services. The order of relative need must be based on:

A. low birth weight, measured as the percent of births of infants weighing less than or equal to 2,500 grams;

B. teenage pregnancies, measured as the percent of mothers less than 18 years of age during the year of their infant's birth;

C. poor prenatal care, measured as the percent of pregnant women receiving no prenatal care or prenatal care only during the third trimester of pregnancy; and

D. poverty, measured as the percent of the total population with income below the poverty level as poverty is defined by the United States Office of Management and Budget and revised annually in accordance with *United States Code*, title 42, section 9902.

Subp. 6. **Priority system.** The priority system under this subpart must be used by the commissioner when required by subpart 4.

A. The commissioner shall give:

(1) first priority to a community health service agency;

- (2) second priority to a public or private nonprofit health service agency;
- (3) third priority to a public human service agency; and
- (4) fourth priority to a private nonprofit human service agency.

B. For the purpose of the priority system, an agency must be classified as a health service agency or as a human service agency, based on the type of services it primarily provides during its current fiscal year. An agency must not be simultaneously classified as a health service agency and a human service agency. The commissioner shall consider an agency to be a health service agency if more than 50 percent of expenses in an agency's budget are allocated to non-WIC program health services and if more than 50 percent of the agency's employee work hours are non-WIC program health service activities.

C. The priority system under this subpart and the subpriority system under subpart 7 apply to:

- (1) an agency that is applying for the first time;
- (2) an agency that has applied before; and
- (3) an agency that has previously administered the WIC program.

D. If two or more agency applicants have the same priority under this subpart, the commissioner shall assign subpriorities to those agencies according to subpart 7.

Subp. 7. Subpriority system. When required by subpart 6, the commissioner shall assign:

A. first subpriority to an agency whose employees can provide ongoing, routine pediatric and obstetric care, and administrative services;

B. second subpriority to an agency that must enter into a written agreement with another agency for either ongoing, routine pediatric and obstetric care, or administrative services;

C. third subpriority to an agency that must enter into a written agreement with private physicians to provide ongoing, routine pediatric and obstetric care for women, infants, or children or for participants not eligible for health services at the local agency;

D. fourth subpriority to an agency that must enter into a written agreement with private physicians to provide ongoing, routine pediatric and obstetric care for all participants; and

E. fifth subpriority to an agency that must provide ongoing, routine pediatric and obstetric care through referral to a health care provider.

Subp. 8. Performance record. A poor performance record under subpart 4 must be determined according to this subpart and subpart 9. To determine whether an agency has a poor performance record the commissioner shall assign points to the agency that indicate whether the agency has performed poorly in the categories of: participation level; level of participation by pregnant women; submission of local agency response to written findings of a management evaluation or financial review, if applicable; corrective action taken by local agency in response to a management evaluation or financial review, if applicable; and submission of a nutrition education plan, or revisions of the plan. Poor performance is any total of points below 35 points. Points for each category of performance must be given according to the table of performance points under subpart 9. For a category of performance for which there has been more than one occurrence since the start date of a current local agency contract, points must be assigned for each occurrence and averaged to obtain the point value to be assigned to the category.

Subp. 9. Table of Performance points.

A. Participation Level

- 15 - Average participation level that is at least 98 percent but not more than 102 percent of the authorized level
- 10 - Average participation level that is 96 to 97.9 percent or 102.1 to 104 percent of the authorized level
- 5 - Average participation level that is 90 to 95.9 percent or 104.1 to 110 percent of the authorized level

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- 0 - Average participation level that is less than 90 percent or more than 110 percent of the authorized level
- B. Participation by Pregnant Women
- 15 - Participation by pregnant women increased by at least ten percent
 - 10 - Participation by pregnant women increased by at least five percent but less than ten percent
 - 5 - Participation by pregnant women maintained or increased by less than five percent
 - 0 - Participation by pregnant women decreased
- C. Response to Written Findings of Management Evaluation
- 15 - Response submitted within 30 days, or no response required
 - 10 - Response submitted within 90 days but after 30 days
 - 5 - Response submitted within 180 days but after 90 days
 - 0 - Response submitted after 180 days, or not submitted
- D. Response to Written Findings of Financial Review
- 15 - Response submitted within 30 days, or no response required
 - 10 - Response submitted within 90 days but after 30 days
 - 5 - Response submitted within 180 days but after 90 days
 - 0 - Response submitted after 180 days, or not submitted
- E. Corrective Action Taken in Response to Management Evaluation
- 15 - No correction needed
 - 10 - Corrective action taken within six months from date of approval of corrective action plan
 - 5 - Corrective action taken within one year but after six months from date of approval of corrective action plan
 - 0 - Corrective action taken after one year from date of approval of corrective action plan, or not taken
- F. Corrective Action Taken in Response to Financial Review
- 15 - No corrective action needed
 - 10 - Corrective action taken within six months from date of approval of corrective action plan
 - 5 - Corrective action taken within one year but after six months from date of approval of corrective action plan
 - 0 - Corrective action taken after one year from date of approval of corrective action plan, or not taken
- G. Nutrition Education Plan
- 15 - Nutrition education plan and required revisions submitted by the established deadline
 - 10 - Nutrition education plan and required revisions submitted within 30 days after established deadline
 - 5 - Nutrition education plan and required revisions submitted within 90 days but after 30 days after established deadline

- 0 - Nutrition education plan and required revisions submitted more than 90 days after established deadline, or not submitted

Subp. 10. **Notice of approval or disapproval.** Within 30 days after receiving a complete application, the commissioner shall give written notice to an agency that the commissioner has approved or disapproved its application. A notice of approval or disapproval must state:

A. that an application is:

- (1) approved as originally submitted;
- (2) approved with changes;
- (3) disapproved because of inadequate WIC program funds for WIC program expansion or initiation;
- (4) disapproved because the agency does not meet the application requirements; or
- (5) disapproved because the commissioner has approved another agency under subpart 6 or 7;

B. that an agency applicant may appeal a disapproval according to part 4617.0100; and

C. that an agency that is disapproved because of inadequate program funds must be approved if funds become available during the period for which the agency is applying.

Subp. 11. **Cessation of local agency operations.** If a local agency ceases to operate before the expiration date of its contract, the commissioner shall publish a notice of availability to solicit agency applications to serve the geographic area or special population that was served by that local agency. The notice of availability must be published according to part 4617.0005.

4617.0025 DISQUALIFICATION.

The commissioner shall stop providing WIC program funds to a local agency if the local agency does not comply with parts 4617.0002 to 4617.0180. A local agency shall reimburse the commissioner for WIC program funds that are not distributed according to this chapter.

4617.0030 LOCAL AGENCY CONTRACTS AND AGREEMENTS.

Subpart 1. **State contracts.** To administer the WIC program, a local agency must have a written contract with the commissioner. The contract must:

A. contain the signatures of the state officials required by *Minnesota Statutes*, section 16.098, and the legal representatives of the local agency;

B. contain the provisions required by *Code of Federal Regulations*, title 7, section 246.6, paragraph (b);

C. be consistent with this chapter;

D. contain a nondiscrimination clause regarding employment practices and the delivery of program benefits to eligible or potentially eligible participants that is consistent with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendment of 1972, section 504 of the Rehabilitation Act of 1973, and *Code of Federal Regulations*, title 7, part 15;

E. require the local agency to obtain written consent from the commissioner to implement a change to the application submitted under part 4617.0010;

F. provide assurances that no conflict of interest exists between the local agency and a vendor or the local agency and the commissioner; and

G. specify beginning and ending dates of the contract.

Subp. 2. **Health care provider agreements.** Except as provided in subpart 3, a local agency whose employees cannot provide ongoing, routine pediatric and obstetric care must have a written agreement with another agency or with a private physician to provide ongoing, routine pediatric and obstetric care. A local agency that provides services under this part must have a written agreement with at least one health care provider per clinic area. A written agreement to provide ongoing, routine pediatric or obstetric care must:

A. have the same beginning and ending dates as the contract completed under subpart 1;

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B. contain a nondiscrimination clause that is consistent with subpart 1, item D;

C. be submitted to the commissioner for approval with the application form required under part 4617.0010, item D; and

D. be consistent with *Code of Federal Regulations*, title 7, section 246.6, paragraph (d) or (e).

Subp. 3. **Health service referral agreements and plans.** An agency whose employees cannot provide or that does not provide ongoing, routine pediatric or obstetric care through a written agreement with another agency or with a private physician under subpart 2, shall submit with its application:

A. at least one letter of understanding with a health care provider per clinic area that describes the referral process for health care and that designates responsibilities of the agency and health care provider; and

B. a plan to make routine pediatric and obstetric care available to participants directly or through written agreements within 90 days after the start of a WIC program contract for that agency.

4617.0035 STAFF QUALIFICATIONS.

Subpart 1. **Competent professional authority.** A person designated by a local agency to serve as a competent professional authority must be employed by or under contract with the local agency and must be a certifier, dietetic technician, dietitian, home economist, licensed practical nurse, nutritionist, physician, physician's assistant, or registered nurse.

Subp. 2. **Commissioner's review.** The commissioner shall review the qualifications of a certifier, dietetic technician, home economist, licensed practical nurse, or physician's assistant and review the agency's plans for the supervision of a certifier, dietetic technician, or licensed practical nurse to ensure compliance with this part.

Subp. 3. **Certifier.** A certifier must meet the requirements of items A to C.

A. A certifier must have been approved by the commissioner to be a competent professional authority before October 1, 1987, and must be supervised on-site continuously by a nutrition education coordinator.

B. A nutrition education coordinator shall review at least 25 percent of a certifier's charts biweekly, shall audit and document at least ten of the certifier's charts at least quarterly, and shall observe and document at least three certifications at least quarterly.

C. A certifier approved under this subpart who voluntarily terminates employment or takes a leave of absence may be rehired as a certifier by a local agency within two years after the date employment is terminated or the leave of absence begins if supervision is provided according to items A and B.

Subp. 4. **Dietetic technician.** A dietetic technician must meet the requirements of item A and of item B or C.

A. A nutrition education coordinator shall supervise a dietetic technician on-site at least four hours a month, audit and document at least ten of the dietetic technician's charts at least quarterly, and observe and document at least three certifications at least quarterly.

B. A dietetic technician hired after September 30, 1987, must meet the requirements of subitems (1) to (3).

(1) Within 30 days after the first day of employment, the dietetic technician must enroll in a self-study course designed by the commissioner.

(2) Within six months after enrolling in a self-study course under subitem (1), the dietetic technician must take an examination on the self-study course in subitem (1).

(3) Within one year after enrolling in the self-study course under subitem (1), the dietetic technician must pass the examination in subitem (2), in no more than three attempts.

C. A dietetic technician approved under this subpart who voluntarily terminates employment or takes a leave of absence may be rehired as a dietetic technician by a local agency within two years of the date employment is terminated or the leave of absence begins without repeating the self-study course if supervision is provided according to item A. A dietetic technician who is rehired after an involuntary termination or is rehired more than two years after the date employment was terminated or the leave of absence began must be considered a new hire under item B.

Subp. 5. **Home economist.** A home economist must meet the requirements of item A or B.

A. A home economist who was approved by the commissioner to be a competent professional authority before October 1, 1987, who does not meet the requirements of item B, and who terminates employment or takes a leave of absence may be rehired as a home economist by a local agency within two years after the date employment is terminated or the leave of absence begins.

B. A home economist hired after September 30, 1987, must have successfully completed college or university coursework including 18 quarter or 12 semester credits in food and nutrition, one-half of which must be in upper division courses. Food and nutrition credits must include courses on the principles of nutrition; the application of nutrition principles to the nutritional needs of infants, children, adults, pregnant women, and breastfeeding women; food budgeting and purchasing; and sociocultural determi-

nants of food choices. Up to two quarter credits or one semester credit of food and nutrition coursework may include coursework in evaluating scientific literature or nutrition claims. The coursework must also include six quarter or four semester credits in the principles of education and counseling and nine quarter or six semester credits in physical and biological sciences. Physical and biological sciences credits may include coursework in chemistry, biology, microbiology, physiology, biochemistry, anatomy, or pathology.

Subp. 6. **Licensed practical nurse.** A licensed practical nurse must meet the requirements of item A, B or C, and D.

A. A nutrition education coordinator shall review at least 25 percent of a licensed practical nurse's charts monthly, audit and document at least ten of the licensed practical nurse's charts at least quarterly, and observe and document at least three certifications at least quarterly.

B. A licensed practical nurse approved by the commissioner to be a competent professional authority before October 1, 1987, must be supervised on-site at least four hours a month by a nutrition education coordinator.

C. A licensed practical nurse hired after September 30, 1987, must be supervised on-site continuously by a nutrition education coordinator. In addition, a licensed practical nurse hired after September 30, 1987, must:

- (1) within 30 days after the first day of employment, enroll in a self-study course designed by the commissioner;
- (2) within six months after enrolling in the self-study course under subitem (1), take an examination on the course; and
- (3) within one year after enrolling in the self-study course under subitem (1), pass the examination in subitem (2) in no more than three attempts.

D. A licensed practical nurse approved under this subpart who voluntarily terminates employment or takes a leave of absence may be hired as a licensed practical nurse by a local agency within two years after the date employment is terminated or the leave of absence begins, without repeating the self-study course if supervision is provided according to items A and C. A licensed practical nurse who is rehired after an involuntary termination or is rehired more than two years beyond the date employment was terminated or leave of absence began must be considered a new hire under item C.

Subp. 7. **Physician's assistant.** A physician's assistant hired after September 30, 1987, shall enroll in a self-study course designed by the commissioner within 30 days of the first day of employment, take an examination on the course that is designed by the commissioner within six months of the enrollment date, and pass the examination in no more than three attempts within one year after the enrollment date. A physician's assistant approved under this subpart who voluntarily terminates employment or takes a leave of absence may be rehired as a physician's assistant in a local agency within two years after the date employment is voluntarily terminated or the leave of absence begins without repeating the self-study course. A physician's assistant who is rehired after an involuntary termination or is rehired more than two years after the date employment was terminated or the leave of absence began must repeat the self-study course.

4617.0037 AUTHORIZED PARTICIPATION LEVELS.

Subpart 1. **Migrant service agencies.** The authorized participation level of a migrant service agency must be based on an annual participation plan. The migrant service agency shall submit an annual participation plan with its application to become a local agency.

Subp. 2. **All other local agencies.** Before the start of a federal fiscal quarter, the commissioner shall determine the total number of participants that can be served statewide. The determination must be based on an estimate of funding available for the WIC program for the federal fiscal quarter.

To determine the authorized participation level for a local agency for a federal fiscal quarter, the commissioner shall consider the local agency's use of its current authorized participation level, the number of participants currently served by each local agency, and the number of applicants for participation on each local agency's waiting list in each priority or subpriority risk group.

Subp. 3. **Applicants who cannot be served.** Based on the estimate of funding available to the WIC program, the commissioner shall determine which priority or subpriority risk groups can be served in Minnesota. A local agency shall not certify an applicant for participation if the applicant is a member of a priority or subpriority risk group that the commissioner has determined cannot be served in Minnesota.

4617.0040 ADMINISTRATIVE FUNDING.

Subpart 1. **Administrative funding for transfer and migrant service agencies.** The commissioner shall provide administrative funds to transfer agencies for start-up costs and to migrant service agencies for start-up, operating, and close-out costs. The costs must be justified by the transfer and migrant service agencies in writing and must be approved by the commissioner.

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Subp. 2. **Administrative funding for operating costs.** Before the beginning of a federal fiscal quarter, the commissioner shall determine the amount of administrative funds available to a local agency for operating costs, based on an estimate of funding available to the WIC program for the quarter. Each local agency shall receive a proportion of the available administrative funds that bears the same relation to total administrative funds as the local agency's authorized participation level bears to the statewide authorized participation level.

Subp. 3. **Allocation of remaining administrative funds.** Any administrative funds remaining after the allocation of funds under subparts 1 and 2 must be made available to local agencies by the commissioner. Local agency costs that the commissioner must consider when allocating these administrative funds include:

A. the staff, mileage, and per diem costs incurred by a local agency with a quarterly authorized participation level of less than 900 to attend WIC program meetings sponsored by the commissioner;

B. staff and mileage costs incurred by a local agency with a geographic area larger than the average for all local agencies to travel to and from clinic sites, to the extent that the miles traveled exceed the average of miles traveled to and from clinic sites; and

C. costs incurred by local agencies in response to special program initiatives designated by the commissioner.

4617.0042 REPORTING REQUIREMENTS.

A local agency must submit to the commissioner the reports in items A to C. If the date a report must be received by the commissioner is on a Saturday, Sunday, or legal holiday, the report must be received by the commissioner on the next business day. The commissioner shall provide forms for the reports upon a local agency's request.

A. The local agency must submit a monthly report of participation to the commissioner by the seventh calendar day of the month following the month for which the report is being submitted.

B. The local agency must submit a claim for reimbursement and report of expenditures to the commissioner by the 20th calendar day of the month following the month for which the report is being submitted.

C. The local agency must submit a final claim for reimbursement and report of expenditures to the commissioner by January 20 of the calendar year following the fiscal year. Payments for the previous fiscal year must not be made for claims filed after this date.

4617.0043 EVALUATIONS AND MONITORING.

Subpart 1. **Evaluations and federal rules.** Through financial reviews and management evaluations the commissioner shall evaluate whether a local agency has accomplished its WIC program objectives and determine whether the local agency is in compliance with parts 4617.0002 to 4617.0180. The commissioner shall monitor a local agency according to *Code of Federal Regulations*, title 7, section 246.19, paragraph (b)(2).

Subp. 2. **Reports of findings.** The commissioner shall give a local agency a written report of findings regarding management evaluations and financial reviews conducted under this part. The commissioner shall mail the report of findings to a local agency within 60 days after completing a financial review or management evaluation under this part.

Subp. 3. **Correcting deficiencies.** Within 30 days after receiving the commissioner's report of findings, a local agency shall submit to the commissioner a written plan for correcting the deficiencies identified in the commissioner's report.

The written plan for correcting deficiencies must be approved by the commissioner in writing. If the commissioner approves a plan, then, six months after approval, the commissioner shall conduct an on-site verification of the plan's implementation. If the commissioner disapproves a plan, the commissioner shall notify the local agency in writing of the reasons for disapproval. Within 30 days after receiving the disapproval notice, a local agency shall submit another plan that addresses the reasons for disapproval.

4617.0044 NUTRITION EDUCATION PLAN; REQUIREMENT.

A local agency must prepare a nutrition education plan for the two years following the submission deadline under part 4617.0055. A nutrition education plan must be consistent with the requirements of this chapter.

4617.0045 NUTRITION EDUCATION PLAN SUBMISSION DEADLINES.

Subpart 1. **General deadline.** Except as provided in subparts 2 and 3, a local agency shall submit a nutrition education plan to the commissioner before October 1 of the federal fiscal year in which the plan must begin.

Subp. 2. **Transfer agency.** A transfer agency shall submit a nutrition education plan to the commissioner not later than 180 days after the transfer agency begins operations. A transfer agency that wants to submit a nutrition education plan after the 180 days must submit a written request to do so to the commissioner.

Subp. 3. **Migrant service agency.** A migrant service agency shall submit a nutrition education plan to the commissioner at least two months before beginning operations each year.

4617.0046 CONTENTS OF A NUTRITION EDUCATION PLAN.

A nutrition education plan must include:

- A. a statement of nutrition education goals and objectives for the participants served by the local agency;
- B. an assessment of the needs for nutrition education, including resources of the local agency and geographic area served by the local agency, and the concerns of program participants and local agency staff;
- C. a description of how the local agency will comply with parts 4617.0054 to 4617.0058;
- D. a description of how community resources will be used to provide nutrition education;
- E. a description of how nutrition education will be documented in a participant's certification file;
- F. a description of the criteria used to select participants for high-risk nutrition education;
- G. a description of how participants with different cultural and language needs will be served;
- H. the written report required by part 4617.0047, subpart 3;
- I. the names of the individuals from the local agency who will provide nutrition education, the type of nutrition education that they will provide, and whether the education will be provided to groups or individuals; and
- J. the signature of the nutrition education coordinator who prepared and approved the nutrition education plan.

4617.0047 EVALUATION AND REVISION OF NUTRITION EDUCATION PLAN.

Subpart 1. **Evaluation.** A local agency shall evaluate its nutrition education plan at the end of each year of the plan.

In evaluating the plan, the local agency must assess progress toward program objectives for nutrition education and individual learning objectives, participants' views on the effectiveness of the nutrition education they received, local agency staff views regarding the nutrition education provided, and any information from the commissioner regarding progress on the plan.

Subp. 2. **Revision.** A local agency must revise its nutrition education plan to document changes and to correct deficiencies indicated by the evaluation under subpart 1. Examples of items that could be revised include program goals and objectives; procedures for providing nutrition education, topics, and instructors for group classes; and specific educational components requested by the commissioner.

Subp. 3. **Written report.** A local agency must submit a written report of the evaluation and revisions to the commissioner by the October 1 following submission of the nutrition education plan. A nutrition education plan submitted according to the deadline under part 4617.0045 must include the evaluation and revisions of the second year of the previous nutrition education plan and must include a separate written report of the evaluation and revisions.

4617.0049 APPROVAL OF NUTRITION EDUCATION PLAN AND WRITTEN REPORT.

The commissioner shall approve or disapprove a nutrition education plan and a written report required under part 4617.0047, subpart 3. Within 120 days after receiving a nutrition education plan or a written report, the commissioner shall notify the local agency in writing of the commissioner's approval or disapproval of that local agency's nutrition education plan or written report. If a plan or report is disapproved, the commissioner shall advise the local agency of the items that must be revised or completed for the plan or report to be consistent with this chapter. A local agency shall complete revisions of the plan or report within 30 days after the date it receives the commissioner's written disapproval.

4617.0050 ROLE OF NUTRITION EDUCATION COORDINATOR.

A nutrition education coordinator must approve and prepare a nutrition education plan. A nutrition education coordinator must approve an individual care plan. At least one nutrition education coordinator from a local agency shall attend the annual nutrition education conference sponsored by the commissioner. A nutrition education coordinator must also review and approve the local agency nutrition education materials and activities.

4617.0052 QUALIFICATIONS OF NUTRITION EDUCATION INSTRUCTORS.

Nutrition education provided to individual participants must be provided by a competent professional authority.

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Nutrition education provided to groups of participants may be provided by a person who is not a competent professional authority if the person is approved to provide that education in the local agency's nutrition education plan, and if a competent professional authority is available for consultation at the site at which the nutrition education is provided.

4617.0054 SCHEDULE OF NUTRITION EDUCATION SESSIONS.

Subpart 1. **Schedule of nutrition education sessions for infants whose certification period ends after their first birthday, women, and children.** An adult participant, the parent or caretaker of an infant or child participant, and, where possible, a child participant must be offered a nutrition education session at the participant's certification appointment and on at least one other separate occasion during the participant's certification period. The nutrition education session offered at the participant's certification appointment must be a one-to-one session for that participant. Depending on the needs of the participant, a nutrition education session offered after the certification appointment may be provided to the participant one-to-one, provided to the participant in a group with other participants, or provided to the participant in a high-risk session as required under part 4617.0056, subpart 3.

Subp. 2. **Schedule of nutrition education sessions for infants whose certification will end on the infant's first birthday.** The parent or caretaker of an infant whose certification ends on the infant's first birthday must be offered a nutrition education session at the infant's certification appointment and, after the certification appointment, on a number of separate occasions that equals or exceeds the number of quarters for which the infant is certified. The nutrition education session offered at the infant's certification appointment must be a one-to-one session for that infant's parent or caretaker. Depending on the needs of the infant, a nutrition education session offered after the certification appointment may be provided to the participant one-to-one, provided to the participant in a group with other participants, or provided to the participant in a high-risk session as required under part 4617.0056, subpart 3.

4617.0056 CONTENTS OF NUTRITION EDUCATION SESSIONS.

Subpart 1. **Contents of nutrition education session for women, children, and infants.** A nutrition education session for women, children, and infants must include the following:

- A. encouragement of pregnant participants to breastfeed unless the participant's health does not allow breastfeeding; and
- B. an explanation of at least one of the following:

(1) the participant's nutritional risk condition, why the risk condition is a problem, and how the problem can be addressed through a change in nutrition or health behaviors;

(2) why it is important that the supplemental food provided to a participant be consumed by that participant rather than other family members or persons outside the family;

(3) that the WIC program is a supplemental food program rather than a total food program, making it necessary that participants purchase the majority of the participant's food needs;

(4) the importance of health care;

(5) the nutritional value of supplemental foods;

(6) how parents and caretakers can meet dietary needs in ways appropriate to the infant's or child's development and how to avoid common nutrition and feeding problems;

(7) the nutritional needs related to the participant's categorical status;

(8) the relationship between diet and health;

(9) the benefits of eating a variety of foods, including foods not provided by the WIC program;

(10) the nutritional concerns of participants; and

(11) the nutrition problems common to individuals in the geographic area or special population served by the local agency.

Subp. 2. **Contents of nutrition education for the parent or caretaker of an infant participant.** A nutrition education session for a parent or caretaker of a participant who is an infant must include information and training regarding:

- A. appropriate feeding practices for an infant;
- B. the introduction of solid food for the infant;
- C. weaning the infant from a bottle or breastfeeding to a cup;
- D. progressing to table foods; and
- E. the value of using infant formula until the infant is one year of age.

Subp. 3. **Contents of high-risk nutrition education.** If a participant meets the high-risk criteria under part 4617.0046, item F, the contents of nutrition education for that participant must be developed according to the needs indicated by the individual care plan required under part 4617.0058.

4617.0058 INDIVIDUAL CARE PLAN.

A competent professional authority from the local agency serving the participant must prepare a written plan to meet the nutrition needs of a participant who meets the criteria required by part 4617.0046, item F, of a participant who requests a plan, or of a participant for whom a competent professional authority has determined that an individual care plan is needed. An individual care plan must include:

- A. an identification of the health and nutritional needs of the participant;
- B. a plan and schedule for meeting the needs identified in item A;
- C. methods for documenting progress of the plan's implementation;
- D. the name of the person who will monitor implementation of the individual care plan;
- E. the signature and title of the person who developed the individual care plan; and

F. the signature and title of the nutrition education coordinator who approved the plan, if a nutrition education coordinator did not develop the plan.

Rules as Proposed**VENDORS****4617.0060 GENERAL APPLICATION REQUIREMENTS.**

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Submission deadlines for applications.** ~~Except as provided in subpart 5,~~ An applicant shall submit an application so it is received by the commissioner no later than the first day of one of the review periods in subpart 5 for the commissioner to review the application during that period. An application that is submitted later than the first day of a review period in subpart 5 must not be reviewed by the commissioner until the following review period. The commissioner may at any time review an application from an applicant from a clinic area where no authorized vendor currently operates.

Subp. 4. **Application approval requirements.** Within 135 days of receiving an application, the commissioner shall inform an applicant in writing of approval or disapproval of an application to become a vendor. A notice of disapproval must state the reasons for the commissioner's disapproval. The commissioner shall include a vendor ~~contract~~ guarantee with a notice of approval to become a vendor. The applicant shall sign the vendor ~~contract~~ guarantee and return it to the commissioner. Within 14 days after receipt of a properly completed and signed vendor ~~contract~~ guarantee, the commissioner shall issue the applicant a vendor stamp.

If after two attempts the commissioner is unable to conduct an on-site visit of an applicant on an established business route because the applicant is not operating at a location indicated on the business route list at the indicated time, the application must be disapproved.

Subp. 5. [Unchanged.]

4617.0061 INITIAL APPLICATIONS.

In this part, "initial application" means an application to participate in the WIC program received from an applicant who is not now participating in the WIC program and who is not a previously authorized vendor or a new owner of a pharmacy or food business for which a vendor stamp has been issued.

The commissioner shall review an initial application according to items A to E.

A. to D. [Unchanged.]

E. The commissioner shall notify an applicant, in writing, of application approval or disapproval. A notice of disapproval must be given or mailed to an applicant within 21 days of the commissioner's review of an application. A notice of approval or disapproval must be given or mailed to an applicant within 21 days of an on-site inspection conducted under item B. A notice of disapproval must state that the application was disapproved because the applicant did not comply with part 4617.0065. An approval notice must state that the application was approved because the applicant complies with part 4617.0065 and that the applicant will be given a vendor stamp according to part 4617.0070 after the commissioner has received a vendor ~~contract~~ guarantee from the applicant, completed according to part 4617.0075.

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4617.0062 NEW OWNER APPLICATIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Commissioner's review.** The commissioner shall approve an application from a new owner according to items A to E.

A. to C. [Unchanged.]

D. If the new owner is eligible under part 4617.0065 and the previous owner did not have a history of noncompliance or a low sales record according to item B, the commissioner shall send the new owner a temporary vendor ~~contract~~ guarantee. The time from the beginning date to the ending date of a temporary vendor ~~contract~~ guarantee must not exceed six months. The new owner shall sign the temporary vendor ~~contract~~ guarantee and return it to the commissioner.

E. Before the ending date of the temporary vendor ~~contract~~ guarantee, the commissioner shall do an on-site inspection of the place of business named on the application to verify that the new owner is in compliance with part 4617.0065. If the on-site inspection verifies that the applicant is in compliance, the applicant's temporary vendor ~~contract~~ guarantee must be amended to extend the ending date of the temporary vendor ~~contract~~ guarantee to the date that is two years beyond the beginning date. If the on-site inspection verifies that the new owner is not in compliance, the applicant shall return the vendor stamp to the commissioner within 30 days of the inspection.

4617.0063 REAPPLICATIONS.

Subpart 1. **Submitting the application.** Before the ending date of a ~~contract~~ guarantee completed by a vendor under part 4617.0061 or 4617.0062, subpart 2, item E, a vendor may submit to the commissioner a new application and food stock and price information. The food stock and price information must be submitted on forms supplied by the commissioner. The commissioner shall approve a reapplication submitted under this part according to subparts 2 to 5.

Subp. 2. **Commissioner's review.** The commissioner shall review the vendor's application, materials required to be submitted by this part, and data maintained by the commissioner to verify that the applicant:

A. is eligible under part 4617.0065;

B. has complied with *Code of Federal Regulations*, title 7, sections 246.1 to 246.25; as amended through January 1, 1988;

C. has complied with this chapter; and

D. has maintained an average sales record of at least \$100 a month for the months sampled by the commissioner, unless the applicant is the only authorized vendor in the clinic area.

Subp. 3. **On-site inspection.** An applicant whose application complies with subpart 2 may keep the vendor stamp and continue to operate as a vendor without an on-site inspection to verify compliance with part 4617.0065 if the commissioner has conducted an on-site inspection or monitoring visit of the applicant no more than 36 months before the ending date of the vendor's current vendor ~~contract~~ guarantee. If the commissioner has not conducted an on-site inspection or monitoring visit, the commissioner shall conduct an on-site inspection of the vendor to verify compliance with part 4617.0065. The commissioner shall disapprove the application of an applicant whose on-site inspection shows the applicant does not comply with part 4617.0065 and shall approve the application of an applicant who does comply. The commissioner shall notify the applicant of the approval or disapproval before the ending date of the vendor's current ~~contract~~ guarantee.

Subp. 4. [Unchanged.]

Subp. 5. **Notice of disapproval; who may reapply.** An applicant whose application is disapproved according to this part shall return to the commissioner that applicant's vendor stamp within 30 days of the date of the commissioner's written notice of disapproval. An applicant whose application is disapproved according to this part may, no sooner than six months after the ending date of the applicant's current vendor ~~contract~~ guarantee, apply to be a vendor according to part 4617.0061.

4617.0064 PRIOR VENDOR APPLICATIONS.

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Notice of review findings.** The commissioner shall notify the vendor in writing of the commissioner's approval or disapproval. A notice of approval or disapproval must be given or mailed to the vendor before the last day of the review period in which the commissioner determines from an application or on-site inspection that the vendor is or is not eligible under part 4617.0065. A notice of disapproval must state that the application was disapproved because the vendor did not comply with part 4617.0065. A vendor whose application is disapproved shall return that vendor's vendor stamp within 30 days of the date of the disapproval notice. An approval notice must state that the application was approved because the vendor complies with part 4617.0065, that the vendor will be given a different vendor stamp according to part 4617.0070, and that a different vendor stamp will not be given to the vendor until the commissioner receives the vendor stamp currently possessed by the vendor and a vendor ~~contract~~ guarantee completed according to part 4617.0075.

The vendor shall return the vendor stamp and the vendor ~~contract~~ guarantee to the commissioner within 30 days of the date of notice of approval.

4617.0065 VENDOR ELIGIBILITY CRITERIA.

Subpart 1. [Unchanged.]

Subp. 2. **Minimum in-stock requirements.** A vendor shall at all times keep in stock at least the authorized foods in item A or B.

A. [Unchanged.]

B. A pharmacy vendor shall keep in stock at least:

(1) the foods under item A, subitems (1) to (3); and

(2) within three business days of a request from a participant or a local agency, any of the following products: Alimentum; Enfamil low-iron; Ensure; Isocal; Isomil SF; Nursoy; Nutramigen; Osmolite; PediaSure; Portagen; Pregestimil; Prosobee; Similac low-iron; Similac PM 60/40; Similac Special Care with Iron 24; SMA low-iron; Sustacal; and Sustacal HC.

Subp. 3. to 6. [Unchanged.]

4617.0075 VENDOR CONTRACTS GUARANTEES.

A person whose application to be a vendor has been approved shall sign a retail food vendor ~~contract~~ guarantee, pharmacy vendor ~~contract~~ guarantee, or restricted pharmacy vendor ~~contract with the commissioner~~ guarantee. A separate vendor ~~contract~~ guarantee must be signed for each vendor. A vendor ~~contract~~ guarantee must contain:

A. ~~names of the contracting parties~~ the name and address of the vendor;

B. the method by which the ~~contract~~ guarantee must be terminated;

C. terms that are consistent with *Code of Federal Regulations*, title 7, sections 246.12, paragraphs (f)(2) and (k)(1)(iii), and 278.1, paragraph (o)(1), ~~as amended through January 1, 1988~~;

D. [Unchanged.]

E. assurances that:

(1) no conflict of interest exists with the Department of Health or any local agency;

(2) to (5) [Unchanged.]

(6) the vendor will return the vendor stamp to the commissioner when the vendor permanently closes business, ownership of the business or vendor outlet changes, the vendor is disqualified, the vendor's application is disapproved, or the vendor ~~contract~~ guarantee ends;

(7) the vendor will comply with this chapter and *Code of Federal Regulations*, title 7, part 246, ~~as amended through January 1, 1988~~; and

(8) [Unchanged.]

F. [Unchanged.]

G. the ~~signatures~~ signature of the commissioner and the vendor and the ~~dates~~ date of the ~~signatures~~ signature.

4617.0080 IDENTIFYING AND MONITORING HIGH RISK VENDORS.

The commissioner shall identify a vendor as a high-risk vendor according to the criteria in *Code of Federal Regulations*, title 7, section 246.12, paragraph (i)(1), ~~as amended through January 1, 1988~~, or because of vendor activities observed by or reported to the commissioner or local agency staff that are suspected by the commissioner or local agency staff to not comply with this chapter. Vendor activities that staff suspect do not comply with this chapter must be reported to or by the commissioner on a form supplied by the commissioner. The form must require a description of the suspected abuse, the name and address of the vendor, and the signature of the staff member.

A high-risk vendor must be monitored according to *Code of Federal Regulations*, title 7, section 246.12, paragraph (i), ~~as amended through January 1, 1988~~.

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Proposed Rules

4617.0085 SANCTIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Length of disqualification.** Disqualifications for multiple abuses are successive, except that the total length of a disqualification or successive disqualifications must not exceed three years. The length of disqualification for an abuse must be according to items A to F.

A. Disqualification is three months for the first offense and six months for each subsequent offense ~~in a contract period~~ for:

(1) to (5) [Unchanged.]

(6) a previously authorized vendor, or a new owner of a business for which a vendor stamp has been issued, who does not return a completed and signed ~~contract~~ guarantee within 45 days.

B. Disqualification is six months for the first offense and 12 months for each subsequent offense ~~in a contract period~~ for a vendor who:

(1) to (14) [Unchanged.]

C. Disqualification is 12 months for the first offense and 24 months for each subsequent offense ~~in a contract period~~ for a vendor who:

(1) violates the nondiscrimination requirements of *Code of Federal Regulations*, title 7, section 246.8; ~~as amended through January 1, 1988;~~

(2) to (8) [Unchanged.]

D. [Unchanged.]

E. A vendor subjected to a civil penalty instead of disqualification from another food and nutrition service program within the last six months is disqualified for six months for the offense that prompted the penalty and 12 months for each subsequent offense that occurs ~~in a contract period~~.

F. A vendor in subitems (1) to (5) who does not return to the commissioner the vendor stamp issued to that vendor within 30 days of the date of a notice from the commissioner to return the vendor stamp shall not reapply as a new vendor for two years from the date of the notice:

(1) [Unchanged.]

(2) a previously authorized vendor who is not eligible to renew its ~~contract~~ guarantee;

(3) to (5) [Unchanged.]

Subp. 3. and 4. [Unchanged.]

Rules as Proposed (all new material)

APPROVED FOODS

4617.0170 PREAPPROVED FOODS.

Beginning with the federal fiscal year following the year in which parts 4617.0002 to 4617.0180 become effective, the commissioner shall approve, for use by the WIC program, foods in the categories of items A to H if the foods meet the approval criteria in part 4617.0180. An approval under this part remains in effect until the approved food product no longer meets the approval criteria or until parts 4617.0170 to 4617.0180 are amended to reflect different approval criteria. The approved food categories are:

- A. infant formula;
- B. infant cereal;
- C. infant fruit juice;
- D. milk;
- E. cheese;
- F. citrus juice;
- G. eggs; and
- H. legumes.

4617.0175 BIENNIALY APPROVED FOODS.

Subpart 1. **Food products.** For the purpose of this part, biennially approved food products are cereal, fruit juice food products other than citrus juices, and vegetable juice food products.

Subp. 2. **Previously approved food products.** Biennially approved food products approved before the effective date of this chapter must be reapproved according to subpart 5 within one year after the effective date of this part.

Subp. 3. **New food products.** Biennially approved food products not approved before the effective date of this chapter must be approved according to subpart 5.

Subp. 4. **Duration of approval.** The approval of a food product approved under subpart 5 must be for two years, beginning on the first day of the federal fiscal year following the date of the notification of approval. However, if the food stops meeting the approval criteria under part 4617.0180, the approval of the food product ends when the food stops meeting the approval criteria.

Subp. 5. **Approval process.** Food required to be approved under this part must be approved according to the following items:

A. The commissioner shall annually send a written request for food product applications to food manufacturers who have asked in writing to receive the request, to food manufacturers of products that were previously approved, and to food manufacturers identified by the commissioner. The request must include the following information:

- (1) a description of the WIC program and of the procedure the commissioner shall use to approve a food;
- (2) the approval criteria under part 4617.0180;
- (3) the list of information that must be submitted as a part of an application for food approval;
- (4) the final date for submission of an application for food approval to the commissioner; and
- (5) the expected timetable for the commissioner's review of an application for food approval.

B. The commissioner shall not consider an application that does not provide the information required by item A, subitem (3), or is not submitted according to item A, subitem (4).

4617.0180 APPROVAL CRITERIA FOR FOODS.

Subpart 1. **Requirement.** A food product must meet the criteria in subparts 2 to 6 to be approved by the commissioner for use by the WIC program.

Subp. 2. **Nutritional acceptability.** A food product must be nutritionally acceptable according to Code of Federal Regulations, title 7, section 246.10, paragraph (c). A product must not contain a nonnutritive or artificial sweetener. Infant cereal must not contain added fruit or formula. Infant fruit juice must be pure and unsweetened and be marked as infant fruit juice. Milk must be unsweetened, unflavored cow's milk that is not buttermilk. Colby longhorn and co-jack may be included as domestic cheeses. Juice other than infant fruit juice must be pure and unsweetened with no additives other than vitamin C (ascorbic acid). Frozen concentrate juice must contain a minimum of 30 milligrams of vitamin C per 100 milliliters when reconstituted at a ratio of one ounce of juice to three ounces of water. Eggs must be fresh and either medium or large size.

Subp. 3. **Packaging.** A food product must be packaged according to items A to H.

- A. Infant cereal must be in containers of at least eight ounces and not more than 24 ounces.
- B. Infant fruit juice must be in 4.0 or 4.2-ounce jars.
- C. Fluid milk must be in gallon or half-gallon containers.
- D. Evaporated milk must be in 12- or 13-ounce cans.
- E. Dry milk must be in containers that do not exceed 28 quarts when reconstituted.
- F. Cheese must be in blocks that do not exceed one pound.
- G. Eggs must be in cartons that contain a dozen eggs.
- H. Legumes must be in one-pound containers.
- I. Frozen juice must be in six-ounce or 12-ounce containers.

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Proposed Rules

- J. Canned fruit or vegetable juice must be in 46-ounce containers.
- K. Hot cereals must not be in individual serving packets.
- L. Ready-to-eat cereal must be in 14 ounce or larger containers.

Subp. 4. **Cost.** The cost of food products must be competitive with the prices of like products acceptable for use. Food product prices must be less than or equal to the average price of the food product plus one standard deviation of the other food products in the same food category.

Subp. 5. **Availability.** A food product must be stocked by at least three authorized vendors in the state. The commissioner shall do on-site inspections to verify availability. If an on-site inspection shows that a food product is not stocked by at least three food vendors in Minnesota, the commissioner shall disapprove that food product.

Subp. 6. **Distinction.** The container, container label, or appearance of an approved food must make that food readily distinguishable from similar food products that do not meet the other approval criteria under this part.

Department of Human Services

Proposed Permanent Rules Relating to Child Care Fund; Eligibility and Administration

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Services Building, Room D, 5th floor, 20 West 12th Street & Columbus Avenue, St. Paul, Minnesota 55155 on May 24, 1989 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Proposed *Minnesota Rules*, parts 9565.5000 to 9565.5240 establish procedures that govern the administration of the Child Care Fund. The Child Care Fund provides subsidized child care assistance, on a sliding fee basis, to enable families to seek or retain employment or to participate in education or training programs necessary to obtain employment. The rule sets forth a sliding fee schedule; sets forth eligibility standards and requirements for families applying for or receiving child care assistance under the various child care fund programs; and sets forth standards and requirements that county and human services boards and postsecondary educational institutions must comply with when administering child care fund programs.

Part 9565.5000 states the purpose and applicability of the rule. The purpose of the rule is to establish requirements for administration of the Child Care Fund and to reduce, according to a sliding fee schedule, the costs of child care services for eligible families to enable them to seek or retain employment or to participate in education and training programs necessary to obtain employment. The rule is applicable to all county and human services boards and postsecondary educational institutions providing subsidized child care to eligible families under *Minnesota Statutes*, sections 256H.01 to 256H.19.

Part 9565.5010 defines words and phrases specific to parts 9565.5000 to 9565.5240.

Part 9565.5020 requires the Commissioner to notify all county and human services boards and postsecondary education institutions of their child care fund allocation by June 1 of each odd-numbered year.

Part 9565.5025 establishes general eligibility requirements and assistance standards common to all applicants and recipients regardless of the particular child care program they qualify for assistance under. Requirements and standards include documentation of eligi-

bility; reporting responsibilities; resident requirements; requirements for two-parent families; maximum weekly child care assistance standards; child care assistance standards during employment and education or training programs; and the maximum length of time a student may receive child care assistance under an education or training program.

Part 9565.5030 establishes standards and requirements governing the administration of the Basic Sliding Fee Program. This part sets forth procedures for allocating child care funds to the counties under the Basic Sliding Fee Program; restricts the amount of Basic Sliding Fee Program funds the county may use for administrative expenses; requires counties to claim federal reimbursement; describes procedures for reallocating unexpended or unencumbered Basic Sliding Fee Program funds; sets forth family eligibility standards under the Basic Sliding Fee Program; requires counties to perform preliminary determinations of eligibility and to maintain waiting lists if funds are insufficient to meet all child care needs; authorizes counties to prioritize assistance to eligible groups; requires counties to document the reason for disproportionate funding of eligible groups; and requires applicants to apply for assistance in their county of residence.

Part 9565.5040 establishes standards counties must comply with when providing child care assistance for job search, employment, and training or education under the Basic Sliding Fee Program.

Part 9565.5050 provides for continued child care eligibility under the Basic Sliding Fee Program when there is a change in income or household status provided the family continues to meet all eligibility requirements under the Basic Sliding Fee Program.

Part 9565.5060 sets forth the amount of child care funds the Commissioner may allocate to the child care fund set-aside programs. The child care fund set-aside programs include the AFDC Priority Groups Program, AFDC Postsecondary Student Program, Public Postsecondary Student Program, and Nonprofit Postsecondary Student Program.

Part 9565.5070 sets forth county allocations under the AFDC Priority Groups Program; establishes eligibility requirements for participants; directs counties to develop cooperative agreements with employment and training providers to address child care needs; sets standards for child care assistance during education or training programs; requires counties to have written policies governing child care assistance under the AFDC Priority Groups Program; allows counties to use Priority Groups Program funds for other child care fund programs after the second quarter if the funds are not needed for the AFDC Priority Groups; sets forth a procedure for reallocating unexpended or unencumbered AFDC Priority Groups Program funds; and requires counties to claim federal reimbursement.

Part 9565.5080 sets forth county allocations under the AFDC Postsecondary Student Program; establishes eligibility requirements for participants; restricts the use of the child care funds to students making satisfactory progress in completion of the educational program; establishes standards governing education and training programs; requires counties to have written policies governing child care assistance under the AFDC Postsecondary Student Program; requires counties to claim federal reimbursement; and sets forth a procedure for reallocating unexpended or unencumbered AFDC Postsecondary Student Program funds.

Part 9565.5090 sets forth postsecondary educational system allocations under the Public Postsecondary Student Program; establishes eligibility requirements for participants; requires host counties to set up postsecondary educational institutional accounts; limits county use of Public Postsecondary Student Program funds for administrative expenses; requires institutional approval for changes in a student's educational program and county approval for changes in an AFDC student's educational program; requires postsecondary educational institution to process applications for child care assistance; requires postsecondary institutions to have written policies for child care assistance under the Public Postsecondary Student Program; establishes county payment responsibilities; and establishes a procedure for reallocating unexpended or unencumbered Public Postsecondary Student Program funds.

Part 9565.5100 sets forth procedures for nonprofit postsecondary educational institution participation in the Nonprofit Postsecondary Student Program; establishes funding allocation procedures; and requires nonprofit postsecondary educational institutions to comply with the same procedures and requirements set forth for public postsecondary educational institutions under part 9565.5090.

Part 9565.5110 sets forth the family copayment fee schedule; requires AFDC families to comply with AFDC program rules governing child care payments; establishes a fee schedule for Non-AFDC families based on annual gross income as that income relates to state median income; and requires the Department of Human Services to publish updated state median incomes and family copayment fee schedules in the *State Register* within 120 days from the date the income data is published in the *Federal Register* by the United States Department of Health and Human Services.

Part 9565.5120 sets forth county payment options for child care subsidy payments; requires counties to notify vendor of payment procedures; requires counties to make payments at least one per month; and permits counties to pay for sick child care and certain child absences on a limited basis from the child care fund.

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Proposed Rules

Part 9565.5130 identifies eligible providers and permits counties to establish provider priorities to encourage the use of licensed child care providers.

Part 9565.5140 requires the Commissioner to determine the median provider charge for infants, toddlers, preschool children, and school age children in day care centers and family day care homes; and establishes limits on state participation.

Part 9565.5150 sets forth county responsibilities under the child care fund. County responsibilities include adoption of written policies and procedures governing child care assistance; dissemination of child care subsidy information; a local match requirement under the Basic Sliding Fee Program; establishment of funding priorities if insufficient funds are available to meet all the requests for child care assistance; establishment of a waiting list and procedures for granting intermittent assistance; submission of child care fund reports; maintenance of funding effort; and compliance with procedures for terminating child care assistance.

Part 9565.5160 requires counties to submit, for Commissioner approval, an annual child care fund allocation plan describing county policies and procedures for expending child care funds.

Part 9565.5170 sets forth duties of administering agencies for processing applications and determining eligibility for assistance for child care assistance.

Part 9565.5180 establishes standards and procedures for determining income eligibility. Income eligibility for AFDC families is determined by AFDC program rules. Income eligibility for non-AFDC families is determined by annual gross income. Annual gross income is the sum of gross earned income, unearned income, lump sum payments, and self-employment income.

Part 9565.5190 requires counties and postsecondary educational institutions to redetermine eligibility for child care assistance following a change in income, household status, employment, education or training or at least every six months whichever occurs first.

Part 9565.5200 establishes standards that counties must comply with when submitting quarterly financial and program activity reports.

Part 9565.5210 sets forth the procedure for reimbursing counties for expenditures under the child care fund.

Part 9565.5220 establishes the procedure the commissioner shall use to withhold child care funds from a county or postsecondary educational institutions that does not comply with the requirements in rule parts 9565.5000 to 9565.5240.

Part 9565.5230 establishes procedures for recovering child care funds used for ineligible purposes and for federal audit exceptions.

Part 9565.5240 establishes a fair hearing process for resolving disputes under the child care subsidy programs.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 256H.01 to 256H.19.

Adoption of these rules will not result in additional spending by local public bodies. A fiscal note estimating the fiscal impact of the rule is available upon request from Nancy Storelee, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Storelee, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816. A copy of the rule may also be viewed at any of the 87 county welfare agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact:

Jim Schmidt
Department of Human Services
444 Lafayette Road
St. Paul, Minnesota 55155-3816
(612) 296-7815

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01, subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Sandra S. Gardebring
Commissioner

Rules as Proposed (all new material)

CHILD CARE FUND

9565.5000 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** The purpose of parts 9565.5000 to 9565.5240 is to govern the administration of the child care fund and to reduce, according to a sliding fee schedule, the costs of child care services for eligible families to enable them to seek or retain employment or to participate in education or training programs to obtain employment. Parts 9565.5000 to 9565.5240 set eligibility standards for recipients and administrative requirements for agencies administering child care funds.

Subp. 2. **Applicability.** To the extent of available allocations, parts 9565.5000 to 9565.5240 apply to all county and human service boards and postsecondary educational systems providing subsidized child care assistance to eligible families under *Minnesota Statutes*, sections 256H.01 to 256H.19.

9565.5010 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9565.5000 to 9565.5240, the following terms have the meaning given them in this part.

Subp. 2. **Administering agency.** "Administering agency" means a county social services agency or a public or nonprofit agency designated by the county board to administer the child care subsidy program, or a postsecondary education institution.

Subp. 3. **Administrative expenses.** "Administrative expenses" means costs associated with the administration of the child care subsidy program. The costs include, but are not limited to:

A. salaries, wages, and related payroll expenses incurred in the administration of the child care subsidy program including direct personnel costs, expenses for general administration and supervision, and expenses for secretarial, clerical, accounting, and other support services;

B. travel and transportation and per diem or subsistence expenses;

C. expenses for materials and office supplies;

D. publication, telephone, postage, and photocopy expenses; and

E. other expenses directly attributable to the child care subsidy program.

Subp. 4. **Aid to families with dependent children or AFDC.** "Aid to families with dependent children" or "AFDC" means Aid to Families with Dependent Children program authorized under title IV-A of the Social Security Act and *Minnesota Statutes*, chapter 256. AFDC provides financial assistance and social services to needy families with dependent children.

Subp. 5. **AFDC caretaker.** "AFDC caretaker" means an AFDC recipient described in part 9500.2440, subpart 7, who lives with and provides care to a dependent child.

Subp. 6. **AFDC employment special needs program.** "AFDC employment special needs program" means a payment made on behalf of an AFDC recipient for certain expenses relating to the preparation for employment, including child care, training, and education meeting the requirements of the AFDC employment special needs program under *Minnesota Statutes*, section 256.736, subdivision 8.

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Proposed Rules

Subp. 7. **AFDC priority groups.** "AFDC priority groups" means AFDC recipients as defined in *Minnesota Statutes*, section 256.736, subdivision 2a.

Subp. 8. **Allocation.** "Allocation" means the share of the total state appropriation of child care funds that a county may earn and be reimbursed for in a state fiscal year. A county's allocation may be raised or lowered during the fiscal year when the commissioner redistributes unexpended or unencumbered allocations.

Subp. 9. **Child.** "Child" means a person 12 years old or younger, or a person 14 years old or younger who is handicapped, as defined in *Minnesota Statutes*, section 120.03.

Subp. 10. **Child care.** "Child care" means the care of a child in or out of the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day, by someone other than a parent, legal guardian, or AFDC caretaker.

Subp. 11. **Child care services.** "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, head start, licensed school age child care programs or extended-day school age programs that meet the standards established by the State Board of Education, or legal nonlicensed child care provided in or out of the child's home.

Subp. 12. **Child care subsidy program.** "Child care subsidy program" means child care services funded under *Minnesota Statutes*, sections 256H.01 to 256H.19.

Subp. 13. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 14. **County board.** "County board" means the board of county commissioners in each county.

Subp. 15. **Department.** "Department" means the Department of Human Services.

Subp. 16. **Documentation.** "Documentation" means a written statement or record that substantiates or validates an assertion made by a person or an action taken by an administering agency.

Subp. 17. **Education program.** "Education program" means remedial or basic education or English as a second language instruction, an educational program that leads to a high school or general equivalency diploma, a prevocational program, and postsecondary education excluding post-baccalaureate programs. Education program includes continuing education units or certification or course work necessary to update credentials to obtain or retain employment.

Subp. 18. **Employability plan.** "Employability plan" means a plan developed for an AFDC caretaker by an employment and training service provider or person designated by the county to provide employment and training services. The employability plan defines the caretaker's employment and training goals and outlines the training, education, and support services the caretaker needs to achieve those goals. All employability plans must meet the requirements of the AFDC Employment Special Needs Program under *Minnesota Statutes*, section 256.736, subdivision 8, or other federal reimbursement programs provided by *Public Law* Number 100-485.

Subp. 19. **Employment and training service provider.** "Employment and training service provider" means a provider certified by the commissioner of jobs and training under *Minnesota Statutes*, section 268.0122, subdivision 3, to deliver employment and training services.

Subp. 20. **Family.** "Family" means family as that term is defined in *Minnesota Statutes*, section 256H.01, subdivision 9.

Subp. 21. **Family copayment fee.** "Family copayment fee" means the unsubsidized portion of the provider charge the family must contribute as its share of child care costs.

Subp. 22. **Full-time child care.** "Full-time child care" means up to a maximum of 60 hours of child care per child per week.

Subp. 23. **Greater Minnesota counties.** "Greater Minnesota counties" means counties outside the seven county metropolitan area.

Subp. 24. **Human services board.** "Human services board" means a board established under *Minnesota Statutes*, section 402.02; *Laws of Minnesota* 1974, chapter 293; or *Laws of Minnesota* 1976, chapter 340.

Subp. 25. **Host county.** "Host county" means the county in which a postsecondary educational institution is located.

Subp. 26. **Income.** "Income" means income as that term is defined in *Minnesota Statutes*, section 256H.01, subdivision 11.

Subp. 27. **In-kind service.** "In-kind service" means a child care subsidy payment made on behalf of a recipient of AFDC by a third party to cover the difference between actual child care costs and the child care disregard under *Minnesota Rules*, part 9500.2580, for employed AFDC recipients, or to cover the cost of child care without a disregard for unemployed AFDC recipients enrolled in an education or training program.

Subp. 28. **Legal nonlicensed caregiver.** "Legal nonlicensed caregiver" means a child care provider exempt from licensing under *Minnesota Statutes*, section 245A.03.

Subp. 29. **Postsecondary educational systems.** "Postsecondary educational systems" means the University of Minnesota Board of Regents, the State University Board, the State Board for Community Colleges, and the State Board of Vocational Technical Education.

Subp. 30. **Provider.** "Provider" means the child care license holder who operates a family day care home, group family day care home, day care center, nursery school, day nursery; a licensed school age child care program or extended-day school age program that meets the standards established by the State Board of Education; or the legal nonlicensed caregiver who is 18 years old or older and functions in or out of the child's home.

Subp. 31. **Provider charge.** "Provider charge" means the amount the child care service provider charges for child care.

Subp. 32. **Recipient.** "Recipient" means a family receiving child care assistance under the child care subsidy program.

Subp. 33. **Redetermination.** "Redetermination" means the process by which information is collected periodically by the county or postsecondary educational institution and used to determine a family's continued eligibility under the child care subsidy program.

Subp. 34. **Seven county metropolitan area.** "Seven county metropolitan area" means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Subp. 35. **State median income.** "State median income" means the state's annual median income for a family of four, adjusted for family size, developed by the Bureau of Census and published annually by the United States Department of Health and Human Services in the *Federal Register*.

Subp. 36. **Student.** "Student" means an individual enrolled in an educational program as defined in subpart 17. A student is a full-time student if the student is enrolled in the minimum equivalent of 12 credits or 20 hours of classroom training per week. A student is a part-time student if the student is (1) a non-AFDC student enrolled in a minimum equivalent of six credits or ten hours of classroom training per week up to the minimum equivalent of full-time student status; or (2) an AFDC student who is less than a full-time student but is in compliance with the education or training requirements in his or her employability plan.

Subp. 37. **Vendor payment.** "Vendor payment" means a payment made by a county or administering agency directly to a provider of child care services on behalf of a recipient.

9565.5020 NOTICE OF CHILD CARE FUND ALLOCATIONS.

By June 1 of each odd-numbered year, the commissioner shall notify all county and human services boards and postsecondary educational systems of their allocations under the child care fund.

9565.5025 GENERAL ELIGIBILITY REQUIREMENTS AND ASSISTANCE STANDARDS FOR ALL APPLICANTS.

Subpart 1. **Applicant requirements and standards.** In addition to specific eligibility requirements under parts 9565.5030, 9565.5070, 9565.5080, 9565.5090, and 9565.5100, all applicants for a child care subsidy shall be governed by the standards and requirements in subparts 2 to 9.

Subp. 2. **Documentation of eligibility information.** A family requesting a child care subsidy must document income eligibility, work, and education or training status. The county or postsecondary educational institution shall verify a family's eligibility to receive a child care subsidy at the time of the family's application; when there is a change in household status, family size, employment, income, education or training status; and at each redetermination under part 9565.5190. When contacting third parties to confirm eligibility information, the county and postsecondary educational institution shall comply with the Minnesota Government Data Practices Act, *Minnesota Statutes*, chapter 13.

Subp. 3. **Recipient reporting responsibilities.** A recipient must follow the reporting procedures in items A to C.

A. A recipient of a child care subsidy must notify the county or postsecondary educational institution of any changes in marital or household status, address, employment, and any change in income from the amount reported on the application form or the last redetermination, whichever occurred later.

B. The recipient must report the changes listed in item A within ten calendar days after the change.

C. A recipient's failure to report any changes under this subpart or to update information for redetermination is just grounds to terminate a child care subsidy.

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Proposed Rules

Subp. 4. **Resident requirement.** A recipient of a child care subsidy must be a Minnesota resident under part 8100.0300.

Subp. 5. **Eligible applicants in two-parent families.** The applicant must meet the employment and education or training requirements of the basic sliding fee program or set-aside programs. The other parent or individual with legal guardianship of the child must meet child care fund requirements or be unable to care for their child or dependent as determined by a medical doctor.

Subp. 6. **Maximum weekly child care assistance.** Child care subsidies may not be received for more than 60 hours per child per week.

Subp. 7. **Child care assistance during employment.** Child care assistance during employment shall be granted for all hours of work including break and meal time and up to one hour per day for travel time. The county must approve additional child care during employment for time greater than the amount provided in this subpart.

Subp. 8. **Child care assistance during education or training.** Child care assistance during education or training shall be granted according to items A and B.

A. Full-time students shall receive the equivalent of full-time child care on the days of class for all hours of the education program including time in between nonconsecutive classes and up to one hour per day for travel time. Full-time students who do not have an open period between classes shall receive up to five hours per week for study and academic appointments.

B. Part-time students shall receive child care for all hours of actual class time and periods between nonconsecutive classes plus up to one hour per day for travel time and up to two hours per week for study and academic appointments if there are no open periods between classes in the student's schedule. The county must approve additional child care during education or training for time in excess of the amount provided in this subpart for part-time students.

Subp. 9. **Maximum education and training under child care fund.** The maximum length of time a student is eligible for child care assistance under the child care fund for education and training is described in items A to C.

A. A student is eligible for a maximum of 48 months of child care subsidy for education or training from a single child care fund program or combination of programs within the child care fund. A four-year education or training program must be directed towards a baccalaureate degree.

B. A student may receive a child care subsidy for a second education or training program if:

- (1) the total period of assistance under both programs does not exceed the equivalent of 48 calendar months;
- (2) the student has been unable to find full-time employment in the student's first program; and
- (3) at least one year has passed since the student completed the first program.

C. A student with a baccalaureate degree may only obtain a child care subsidy for continuing education units or certification or coursework necessary to update credentials to obtain or retain employment.

9565.5030 BASIC SLIDING FEE PROGRAM.

Subpart 1. **Basic sliding fee allocation.** For fiscal year 1990 and each following fiscal year, the commissioner shall allocate to the basic sliding fee program child care funds that remain after set-aside allocations.

Subp. 2. **County allocation.** The commissioner shall allocate basic sliding fee funds among the counties according to items A to C:

A. 50 percent of the money shall be allocated among the counties on the basis of the number of families below the poverty level, as determined from the most recent special census.

B. 50 percent of the money shall be allocated among the counties on the basis of caseloads of AFDC for the preceding year.

C. If under the formula in items A and B, either the seven county area or the area made up of the greater Minnesota counties is allocated more than 55 percent of the basic sliding fee funds, each county's allocation in that area shall be proportionally reduced until the total for the area is no more than 55 percent of the basic sliding fee funds. The amount of the allocations proportionally reduced shall be used to proportionally increase each county's allocation in the other area.

Subp. 3. **County administrative expenses.** A county may use up to seven percent of its allocation under subpart 2 for administrative expenses.

Subp. 4. **AFDC federal program reimbursement.** Counties shall claim, on forms prescribed by the commissioner, federal reimbursement under the AFDC special needs program and other appropriate federal programs for child care expenditures for all eligible AFDC recipients who are in education, training, or other preemployment activities allowed under the AFDC special needs program or other federal reimbursement programs. The commissioner shall allocate any federal earnings to the county that claimed the federal reimbursement and the county shall use the earnings to expand funding for child care services under the basic sliding fee program.

Subp. 5. **Reallocation of unexpended or unencumbered funds.** The commissioner shall reallocate unexpended or unencumbered funds according to items A to E.

A. The commissioner may reallocate unexpended or unencumbered funds following the first, second, and third quarters as provided in Minnesota Statutes, section 256H.03, subdivision 3. Following the fourth quarter, the commissioner shall review county expenditures under the basic sliding fee program and shall reallocate unearned allocations to counties that earned their full allocation.

B. The amount reallocated to any county shall be based on earnings in excess of its allocation. The amount reallocated shall not be greater than the earnings in excess of allocation minus the county's maintenance of effort required under part 9565.5150, subpart 8.

C. If the amount of funds available for reallocation is less than total county earnings in excess of allocations, the reallocated funds shall be prorated to each county based on the ratio of the county's earnings in excess of its allocation to the total of all county earnings in excess of their allocation.

D. If the amount of funds available for reallocation is greater than total county earnings in excess of allocations under the basic sliding fee program, the funds remaining after the basic sliding fee reallocation shall be allocated to counties with excess earnings under the AFDC priority groups program based on the ratio of a county's earning in excess of its allocation to all county earnings in excess of allocation under the AFDC priority groups program.

E. Funds remaining after reallocations for excess earnings under the basic sliding fee and the AFDC priority groups programs shall be allocated to counties with excess earnings under the AFDC postsecondary student program based on the ratio of a county's earnings in excess of its allocation to all county earnings in excess of allocation under the AFDC postsecondary student program.

Subp. 6. **Families eligible for subsidies under the basic sliding fee program.** Eligibility for subsidies under the basic sliding fee program is determined according to items A and B.

A. To the extent of available allocations, a family is eligible for a child care subsidy under the basic sliding fee program if the family meets eligibility requirements under part 9565.5025 and:

(1) is receiving AFDC;

(2) is eligible for AFDC but is not receiving AFDC; or

(3) has annual gross income that is above the eligibility limit for AFDC but that does not exceed 75 percent of the state median income for a family of four, adjusted for family size.

B. If adequate funds become available, the commissioner may extend the eligibility limit to families with incomes greater than 75 percent of the state median income for a family of four, adjusted for family size, to use available funds.

Subp. 7. **Basic sliding fee program waiting lists.** Counties must keep a written record of families who have applied for a child care subsidy. When a family requests information about child care assistance, the county shall perform a preliminary determination of eligibility. If it appears that a family is eligible for a child care subsidy and funds are not immediately available, the family shall be placed on a child care subsidy waiting list. The county shall provide a means of identifying students placed on the basic sliding fee waiting list. If it appears that a family is eligible for a child care subsidy and funds are available or if a family requests an application, the family shall be given a child care subsidy application.

Subp. 8. **Prioritizing child care assistance.** If a county projects that its basic sliding fee allocation is insufficient to meet the needs of all families eligible under subpart 6, it may prioritize, subject to the commissioner's approval, funding among the groups to be served. The county's procedure for prioritizing basic sliding fee program funds between all eligible groups shall be contained in its annual allocation plan required under part 9565.5160.

Subp. 9. **County documentation required if group disproportionately funded.** If more than 60 percent of the total funds available under the basic sliding fee program are provided to any group eligible for a child care subsidy under subpart 6, the county shall document the reason the group received a disproportionate share of the basic sliding fee funds. The county shall provide a copy of the documentation to the commissioner for approval. If a county's disproportionate funding is consistent with its annual allocation plan, no additional documentation is required.

Subp. 10. **Application for child care assistance.** A family that seeks a child care subsidy under the basic sliding fee program must apply for the child care subsidy in the family's county of residence.

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Proposed Rules

9565.5040 JOB SEARCH, EMPLOYMENT, AND EDUCATION OR TRAINING ELIGIBILITY UNDER BASIC SLIDING FEE PROGRAM.

Subpart 1. **Child care subsidy during job search.** To the extent of available allocations, counties shall provide persons eligible under part 9565.5030 who are seeking employment, the equivalent of one month of full-time child care during job search. At the option of the applicant and with prior county approval, child care may be used at a rate that is less than full-time for a period of up to four consecutive months provided the total child care subsidy does not exceed the equivalent of one month full-time child care. For the purpose of this subpart, job search includes locating, contacting, and interviewing with potential employers and preparing for job interviews.

Subp. 2. **Child care subsidy during employment.** To the extent of available allocations, counties shall provide child care subsidies to employed persons who are eligible under part 9565.5030, who work ten hours or more per week, and who receive at least the state minimum wage for all hours worked.

Subp. 3. **Child care subsidy during education or training programs.** To the extent of available allocations, counties shall provide child care subsidies to students eligible under part 9565.5030 and enrolled in part-time or full-time education or training programs.

A. Employed full-time or part-time students are eligible for child care for the hours of employment and education or training.

(1) An acceptable course of study for an AFDC caretaker is a training or education program described in the AFDC recipient's employability plan.

(2) An acceptable course of study for a non-AFDC student is an education or training program that will reasonably lead to full-time employment opportunities as determined by the county.

B. Subject to the limitation in part 9565.5025, subpart 9, counties shall pay child care subsidies to persons eligible under this subpart for the length of the education or training program if the student is making satisfactory progress in the educational or training program. Satisfactory progress in the education or training program shall be determined by the county based on written county policies approved by the commissioner. If the county determines that a student is not making satisfactory progress towards completion of an education program, it shall notify the student and shall discontinue the child care subsidy according to part 9565.5150, subpart 9.

C. Upon approval of an application for assistance under this subpart, a county must set aside funds from its current allocation to cover child care subsidies for the current program year. Counties may cover the funding for a child care subsidy for persons eligible under this subpart from funding sources other than the child care fund.

Subp. 4. **Changes in education or training programs; approvals required.** A change in an education or training program that requires an additional period of child care assistance from the student's original program must be approved by the county based on written policies established by the county and approved by the commissioner. A change in an AFDC recipient's education or training program must be included in the employability plan.

9565.5050 CONTINUED ELIGIBILITY UNDER THE BASIC SLIDING FEE PROGRAM.

To the extent of available allocations, a county may not refuse continued child care assistance to a family receiving a subsidy under the basic sliding fee program when there is a change in the family's financial or household status. However, the family's annual gross income may not exceed 75 percent of the state median income for a family of four, adjusted for family size, and the family must meet all other eligibility requirements under the basic sliding fee program. Except for the education time limit under part 9565.5025, subpart 9, counties may not set a time limit for eligibility under the basic sliding fee program.

9565.5060 SET-ASIDE PROGRAM ALLOCATIONS.

For fiscal year 1990 and each following fiscal year, the commissioner may allocate up to 52 percent of the available child care funds for set-aside programs described in Minnesota Statutes, section 256H.04, subdivision 1.

9565.5070 SET-ASIDE FOR AFDC PRIORITY GROUPS.

Subpart 1. **County allocation.** The commissioner shall allocate to the counties set-aside funds for AFDC priority groups as provided in Minnesota Statutes, section 256H.05, subdivision 1. The county shall not use any of the allocation under this subpart for administrative expenses.

Subp. 2. **Families eligible under the AFDC priority groups program.** To the extent of available allocations, families eligible for a child care subsidy under the AFDC priority groups program are AFDC caretakers who meet eligibility requirements under part 9565.5025 and criteria under part 9565.5010, subpart 7. Former AFDC families who received a child care subsidy under the AFDC priority groups program, who continue to require a child care subsidy to remain employed, and who are on a waiting list for the basic sliding fee program under part 9565.5030 are eligible for a child care subsidy under this subpart.

Subp. 3. **Agreements with employment and training service providers.** The county shall develop cooperative agreements with employment and training service providers to coordinate child care funding with employment, training, and education programs for AFDC recipients under the PATHS program in Minnesota Statutes, section 256.736. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan shall, to the extent of available allocations, be guaranteed set-aside money for child care assistance from the county of their residence to cover the recipient's employability plan.

Subp. 4. **Child care subsidy during education or training programs under AFDC priority groups.** To the extent of available allocations, counties shall provide child care subsidies for full-time or part-time AFDC students.

A. Employed students are eligible for child care for the hours of employment and education or training. An acceptable course of study for an AFDC caretaker is a training or education program described in the AFDC recipient's employability plan.

B. Subject to the limitation in part 9565.5025, subpart 9, counties shall pay child care subsidies for persons eligible under this subpart for the length of the education or training program if the student is making satisfactory progress in an educational or training program. Satisfactory progress in an education or training program shall be determined by the counties based on written policies approved by the commissioner. The county of financial responsibility shall obtain reports on the student's progress for each grading period. If the county determines that the student is not making satisfactory progress toward completion of an education program, it shall notify the student and shall discontinue the child care subsidy according to part 9565.5150, subpart 9.

C. Upon approval of an application for assistance under this subpart, a county must set aside funds from its current allocation to cover child care subsidies for the current program year. Counties may cover the funding for a child care subsidy for persons eligible under this subpart from funding sources other than the child care fund.

Subp. 5. **Changes in education or training programs; approvals required.** A change in an education or training program that requires an additional period of child care eligibility from the student's original program must be included in the student's employability plan and approved by the county based on written policies established by the county and approved by the commissioner.

Subp. 6. **Set-aside fund use after second quarter.** On or after January 1 of each year, if the commissioner finds that set-aside funds for AFDC priority groups are not being fully used, counties may use AFDC priority group set-aside funds for families eligible under the basic sliding fee program or other set-aside programs. However, priority for use of the funds must be given to AFDC priority groups.

Subp. 7. **Reallocation of unearned AFDC priority groups funds.** The commissioner shall reallocate set-aside funds for AFDC priority groups according to items A to E.

A. Following the fourth quarter, the commissioner shall review county expenditures of AFDC priority groups set-aside funds. The commissioner shall reallocate unearned AFDC priority groups set-aside allocations to counties that earned their full allocation.

B. The amount reallocated to any county shall be based on earnings in excess of its allocation. The amount reallocated shall not be greater than the earnings in excess of allocation.

C. If the amount of funds available for reallocation is less than total county earnings in excess of allocations, the reallocated funds shall be prorated to each county based on the ratio of a county's earnings in excess of its allocation to the total of all county earnings in excess of their allocations.

D. If the amount of funds available for reallocation is greater than total county earnings in excess of allocations under the AFDC priority groups program, the funds remaining after the AFDC priority groups program reallocation shall be allocated to counties with excess earnings under the AFDC postsecondary student program based on the ratio of a county's earnings in excess of its allocation to all county earnings in excess of allocation under the AFDC postsecondary student program.

E. Funds remaining after reallocations for excess earnings under the AFDC postsecondary student program shall be reallocated to counties with excess earnings under the basic sliding fee program.

Subp. 8. **AFDC federal program reimbursement.** Counties shall claim, on forms prescribed by the commissioner, federal reimbursement under the AFDC special needs program and other appropriate federal programs for child care expenditures for all eligible AFDC recipients who are in education, training, or other preemployment activities allowed under the AFDC special needs program or other federal reimbursement programs. The commissioner shall allocate any federal earnings to the county that claimed the federal reimbursement. The county shall use the earnings to expand funding for child care services under the AFDC priority groups program.

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Proposed Rules

9565.5080 SET-ASIDE FOR AFDC POSTSECONDARY STUDENTS.

Subpart 1. **County allocation.** The commissioner shall allocate AFDC postsecondary student set-aside funds to the counties based on the ratio of a county's caseloads for AFDC for the preceding year to the total of all AFDC caseloads for the preceding year. When information becomes available on the number of AFDC caretakers enrolled in postsecondary educational institutions, the commissioner shall allocate AFDC postsecondary student set-aside funds to the counties based on the ratio of the number of AFDC caretakers enrolled in postsecondary educational institutions in each county to all AFDC caretakers enrolled in postsecondary educational institutions in all counties. The county may not use any of the funding under this subpart for administrative expenses.

Subp. 2. **Families eligible under the AFDC postsecondary student program.** To the extent of available allocations, a family is eligible for a child care subsidy under the AFDC postsecondary student program if the family meets the eligibility requirements under part 9565.5025 and is receiving AFDC with a caretaker enrolled in a postsecondary institution. An acceptable postsecondary educational program may not include post-baccalaureate programs directed towards a post-baccalaureate degree.

Subp. 3. **Fund uses and continued assistance.** Funds allocated to a county under subpart 1 must be used for child care expenses of AFDC recipients attending postsecondary educational institutions and making satisfactory progress in completing the educational program. Satisfactory progress in the education program shall be determined by the county based on written county policies approved by the commissioner. The county shall obtain reports on the student's progress for each grading period. If the county determines that the student is not making satisfactory progress toward completion of an education program, it shall notify the student and shall discontinue the child care subsidy according to part 9565.5150, subpart 9.

Subp. 4. **Child care subsidy during education or training programs under the AFDC postsecondary student program.** To the extent of available allocations, counties shall provide child care subsidies for AFDC students enrolled in education or training programs.

A. Employed students are eligible for child care for the hours of employment and education or training. An acceptable course of study for an AFDC caretaker is a training or education program described in an employability plan.

B. Subject to the limitation in part 9565.5025, subpart 9, counties shall pay child care subsidies for persons eligible under this subpart for the length of the education or training program if the student is making satisfactory progress in the educational or training program. Satisfactory progress in the education or training program shall be determined by county based on written county policies approved by the commissioner.

C. Upon approval of an application for assistance under this subpart, a county must set aside funds from its current allocation to cover child care subsidies for the current program year. If a recipient's education or training program extends beyond the current allocation year, the county must set aside allocations to cover the recipient's eligible period of education or training upon receipt of its allocation in subsequent years. Counties may cover the funding for a child care subsidy for persons eligible under this subpart from funding sources other than the child care fund.

Subp. 5. **Changes in education or training programs; approvals required.** A change in an education or training program requiring an additional period of child care eligibility over the student's original program must be included in the employability plan and approved by the county based on written policies established by the county and approved by the commissioner.

Subp. 6. **AFDC federal program reimbursement.** Counties shall claim, on forms prescribed by the commissioner, federal reimbursement under the AFDC special needs program and other appropriate federal programs for child care expenditures for all eligible AFDC recipients who are in education, training, or other preemployment activities allowed under the AFDC special needs program or other federal reimbursement programs. The commissioner shall allocate any federal earnings to the county that claimed the federal reimbursement. The county must use the earnings to expand funding for child care services under the AFDC postsecondary student program.

Subp. 7. **Reallocation of unexpended or unencumbered funds.** The commissioner shall reallocate unexpended or unencumbered funds according to items A to C.

A. The commissioner may reallocate unexpended or unencumbered funds following the first, second, and third quarters as provided in Minnesota Statutes, section 256H.06, subdivision 3. Following the fourth quarter, the commissioner shall review county expenditures under the AFDC postsecondary student program. The commissioner shall reallocate unearned allocations to counties that earned their full allocation.

B. The amount reallocated to any county shall be based on earnings in excess of its allocation. The amount reallocated shall not be greater than the earnings in excess of allocation.

C. If the amount of funds available for reallocation is less than the total county earnings in excess of allocations, the reallocated funds shall be prorated to each county based on the ratio of the county's earnings in excess of its allocation to the total of all county earnings in excess of all county's allocations.

9565.5090 SET-ASIDE FOR PUBLIC POSTSECONDARY STUDENTS.

Subpart 1. **Postsecondary educational system allocation.** Each postsecondary educational system shall be allocated a portion of the set-aside funds for eligible postsecondary students as provided in Minnesota Statutes, section 256H.07, subdivision 1. The postsecondary educational system may allow pooling of individual institution allocations within a host county.

Subp. 2. **Families eligible under the public postsecondary student program.** To the extent of available allocations, a family is eligible for a child care subsidy under the public postsecondary student program if (1) the family meets the eligibility requirements under part 9565.5025; (2) the family's annual gross income does not exceed 75 percent of the state median income for a family of four, adjusted for family size; and (3) a parent, legal guardian, or AFDC caretaker is attending a public postsecondary educational institution.

Subp. 3. **Public postsecondary educational institution account.** The commissioner shall transfer to the host county the allocation for each public postsecondary educational institution located in the county. The host county shall hold the funds in an account for students attending the public postsecondary educational institution in that county who are eligible for a child care subsidy. If there is more than one public postsecondary education institution in the host county, the host county shall keep a separate account for each institution.

Subp. 4. **County administrative expenses.** The county may use up to four percent of the funds transferred to it under subpart 3 for administrative expenses.

Subp. 5. **Child care subsidy during education or training programs under the postsecondary student program.** To the extent of available allocations, host counties shall provide from the institution's account child care subsidies for part-time or full-time students enrolled in education or training programs.

A. Students who are employed while enrolled in school are eligible for child care for the hours of employment and education or training.

(1) An acceptable course of study for an AFDC caretaker is a training or education program described in an employability plan.

(2) An acceptable course of study for a non-AFDC student is an education or training program that will reasonably lead to full-time employment opportunities as determined by the educational institution.

B. Subject to the limitation in part 9565.5025, subpart 9, host counties shall pay child care subsidies for persons eligible under this subpart for the length of the education or training program if the student is making satisfactory progress in the educational or training program. Satisfactory progress in the education or training program shall be determined by the institution based on written policies approved by the commissioner. If the institution determines that a student is not making satisfactory progress towards completion of an education program, it shall notify the student and the county and the county shall discontinue the child care subsidy consistent with the procedure under part 9565.5150, subpart 9.

C. Upon approval of an application for assistance under this subpart, an institution must set aside funds from its current allocation to cover child care subsidies for the current program year. If a recipient's education or training program extends beyond the current allocation year, the institution must set aside allocations to cover the recipient's eligible period of education or training upon receipt of its allocation in subsequent years. Institutions may cover the funding for a child care subsidy for persons eligible under this subpart from funding sources other than the child care fund.

Subp. 6. **Changes in education or training programs; approvals required.** A change in an education or training program that requires an additional period of child care eligibility from the student's original program must be approved under this subpart.

A. For non-AFDC students an education or training program change may be approved by the educational institution. The educational institution shall notify the host county of the academic change and the host county shall extend the recipient's child care subsidy for the necessary period of time.

B. An AFDC student's program change must be included in the student's employability plan and must be approved by the county of residence based on written policies established by the county of residence and approved by the commissioner.

C. Upon county approval of the change in the employability plan, the institution shall notify the host county to extend the recipient's child care subsidy for the necessary period of time. The educational institution is responsible for assuring that allocations are available to cover child care costs for the student's revised education or training program.

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Proposed Rules

Subp. 7. **Institution processing of student eligibility.** Postsecondary educational institutions shall take applications for a child care subsidy from students and determine family eligibility for assistance under parts 9565.5025 and 9565.5030, subpart 6. The institution shall notify the host county of the student's eligibility. The postsecondary educational institution shall not approve student applications for assistance or extend student eligibility for child care assistance in excess of its allocation under subpart 1. The institution shall negotiate an agreement with the host county to delegate administration of the program to the host county or the host county's designated administering agency.

Subp. 8. **Postsecondary educational systems policies.** Postsecondary educational systems shall establish written policies for: (1) prioritizing which students will receive a child care subsidy; (2) the number of credits or hours needed before a student may qualify for a subsidy; (3) the hours of child care to be funded for a student; (4) student dropout; (5) satisfactory progress policy; and (6) other policies affecting academic issues.

Policies for AFDC students must meet AFDC employment special needs requirements. The institution's policies must be submitted with the county allocation plan in order to act as documentation in the fair hearing process.

Subp. 9. **Institution maintenance of funding effort.** The postsecondary educational institution shall provide a written statement to the commissioner that it has not reduced funds from federal, other state, or private sources that were specified for child care or used for child care in state fiscal year 1987 that, in absence of the child care subsidy funds, would have been available for child care subsidies.

Subp. 10. **County payment responsibility.** The host county shall process the child care subsidy application and make vendor payments to the family's provider of child care from the postsecondary institution's account on at least a monthly reimbursement basis. The host county shall inform the family, educational institution, and the provider of the payment procedures and the amount of the payment. The host county shall inform the postsecondary institution of vendor payments and the institution's account status at least once each quarter.

Subp. 11. **Reallocation of unexpended or unencumbered postsecondary education funds.** Postsecondary educational systems may reallocate unexpended or unencumbered funds among institutions under their authority. If by May 15 of any year public postsecondary student set-aside funds are not expended or encumbered by the postsecondary educational systems, the commissioner shall reallocate the funds to the counties based on the reallocation process in part 9565.5030, subpart 5.

9565.5100 SET-ASIDE FOR NONPROFIT POSTSECONDARY STUDENTS.

Subpart 1. **Nonprofit educational institution participation.** A nonprofit postsecondary educational institution that wants to participate in the child care subsidy program must make a written request to the commissioner. The written request shall include documentation of the institution's nonprofit status. If the commissioner approves the institution's participation in the child care subsidy program, the host county of the institution shall receive child care funding as provided in subpart 2.

Subp. 2. **Funding allocation and system accounts.** Funds for a nonprofit educational institution participating in the child care subsidy program are allocated according to items A to C.

A. Ten percent of the funds available for allocation under part 9565.5090, subpart 1, shall be transferred by the commissioner to the host counties of nonprofit postsecondary educational institutions participating in the nonprofit postsecondary student program.

B. Child care funds shall be allocated to participating institutions based on the proportion of the students who apply for financial aid and report dependents in each nonprofit postsecondary institution to all students who apply for financial aid and report dependents in all nonprofit postsecondary institutions. The funds shall be used to subsidize the child care costs of students attending nonprofit postsecondary educational institutions.

C. If a nonprofit postsecondary educational institution's allocation under item B is insufficient to fund the child care subsidy need of an eligible full-time student for a full academic year, those funds shall be reallocated on a proportional basis to nonprofit postsecondary educational institutions that qualify for funding. If there is more than one nonprofit postsecondary educational institution in the host county, the county shall maintain a separate account for each institution.

Subp. 3. **Program requirements under the nonprofit postsecondary student program.** Program requirements under the nonprofit postsecondary student program are the same as the requirements in part 9565.5090, subparts 2 to 11.

9565.5110 FAMILY COPAYMENT FEE SCHEDULE.

Subpart 1. **Non-AFDC family copayment fees.** Non-AFDC families participating in the sliding fee program must pay a family copayment fee for child care services as provided in subpart 3.

Subp. 2. **AFDC family copayment fees.** AFDC families participating in the sliding fee program shall be governed by AFDC program rules regarding child care costs. Employed AFDC recipients must use their dependent care disregard before using the child care fund except as federal and state waivers allow. The child care fund shall cover the cost of child care for unemployed AFDC recipients in education, training, or preemployment activities up to the maximum amount set by the county under part 9565.5140 without applying a disregard.

Subp. 3. Calculation of non-AFDC family copayment fee. A non-AFDC family's monthly copayment fee is a fixed percent of its annual gross income. The fixed percent is based on the relationship of the family's annual gross income to 100 percent of state median income for a family of four, adjusted for family size. The fixed percent is set forth in item C.

Subject to the maximum provider rate established under part 9565.5140, if the family is eligible for AFDC but not receiving AFDC there is no family copayment fee. If the provider's charge for child care is greater than the maximum provider rate established by the county under part 9565.5140, the family shall pay the difference between the maximum provider rate and the provider charge.

The monthly family copayment fee for families with annual incomes greater than 185 percent of the AFDC family allowance for the assistance unit under part 9500.2440 is determined as follows:

A. The family's annual gross income is converted into a percentage of state median income for a family of four, adjusted for family size, by dividing the family's annual gross income by 100 percent of the state median income for a family of four, adjusted for family size. The percentage must be carried out to the nearest 100th of a percent.

B. If the family's annual gross income is greater than 185 percent of the maximum AFDC grant for a family of the same size but less than 42.01 percent of the state median income for a family of four, adjusted for family size, the family's monthly copayment fee is \$20.

C. If the family's annual gross income is between 42.01 and 75.00 percent of the state median income (SMI) for a family of four, adjusted for family size, the monthly copayment fee is the fixed percentage established for that income range in subitems (1) to (58) multiplied by the highest possible income within that income range, divided by 12, and rounded to the nearest whole dollar.

- (1) 42.01 to 43.00 percent of SMI — 2.60%
- (2) 43.01 to 44.00 percent of SMI — 2.80%
- (3) 44.01 to 45.00 percent of SMI — 3.00%
- (4) 45.01 to 46.00 percent of SMI — 3.20%
- (5) 46.01 to 47.00 percent of SMI — 3.40%
- (6) 47.01 to 48.00 percent of SMI — 3.60%
- (7) 48.01 to 49.00 percent of SMI — 3.80%
- (8) 49.01 to 50.00 percent of SMI — 4.00%
- (9) 50.01 to 50.50 percent of SMI — 4.20%
- (10) 50.51 to 51.00 percent of SMI — 4.40%
- (11) 51.01 to 51.50 percent of SMI — 4.60%
- (12) 51.51 to 52.00 percent of SMI — 4.80%
- (13) 52.01 to 52.50 percent of SMI — 5.00%
- (14) 52.51 to 53.00 percent of SMI — 5.20%
- (15) 53.01 to 53.50 percent of SMI — 5.40%
- (16) 53.51 to 54.00 percent of SMI — 5.60%
- (17) 54.01 to 54.50 percent of SMI — 5.80%
- (18) 54.51 to 55.00 percent of SMI — 6.00%
- (19) 55.01 to 55.50 percent of SMI — 6.25%
- (20) 55.51 to 56.00 percent of SMI — 6.50%
- (21) 56.01 to 56.50 percent of SMI — 6.75%
- (22) 56.51 to 57.00 percent of SMI — 7.00%
- (23) 57.01 to 57.50 percent of SMI — 7.25%
- (24) 57.51 to 58.00 percent of SMI — 7.50%

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- (25) 58.01 to 58.50 percent of SMI — 7.75%
- (26) 58.51 to 59.00 percent of SMI — 8.00%
- (27) 59.01 to 59.50 percent of SMI — 8.25%
- (28) 59.51 to 60.00 percent of SMI — 8.50%
- (29) 60.01 to 60.50 percent of SMI — 8.75%
- (30) 60.51 to 61.00 percent of SMI — 9.00%
- (31) 61.01 to 61.50 percent of SMI — 9.25%
- (32) 61.51 to 62.00 percent of SMI — 9.50%
- (33) 62.01 to 62.50 percent of SMI — 9.75%
- (34) 62.51 to 63.00 percent of SMI — 10.00%
- (35) 63.01 to 63.50 percent of SMI — 10.30%
- (36) 63.51 to 64.00 percent of SMI — 10.60%
- (37) 64.01 to 64.50 percent of SMI — 10.90%
- (38) 64.51 to 65.00 percent of SMI — 11.20%
- (39) 65.01 to 65.50 percent of SMI — 11.50%
- (40) 65.51 to 66.00 percent of SMI — 11.80%
- (41) 66.01 to 66.50 percent of SMI — 12.10%
- (42) 66.51 to 67.00 percent of SMI — 12.40%
- (43) 67.01 to 67.50 percent of SMI — 12.70%
- (44) 67.51 to 68.00 percent of SMI — 13.00%
- (45) 68.01 to 68.50 percent of SMI — 13.30%
- (46) 68.51 to 69.00 percent of SMI — 13.60%
- (47) 69.01 to 69.50 percent of SMI — 13.90%
- (48) 69.51 to 70.00 percent of SMI — 14.20%
- (49) 70.01 to 70.50 percent of SMI — 14.50%
- (50) 70.51 to 71.00 percent of SMI — 14.80%
- (51) 71.01 to 71.50 percent of SMI — 15.10%
- (52) 71.51 to 72.00 percent of SMI — 15.40%
- (53) 72.01 to 72.50 percent of SMI — 15.70%
- (54) 72.51 to 73.00 percent of SMI — 16.00%
- (55) 73.01 to 73.50 percent of SMI — 16.30%
- (56) 73.51 to 74.00 percent of SMI — 16.60%
- (57) 74.01 to 74.50 percent of SMI — 16.90%
- (58) 74.51 to 75.00 percent of SMI — 17.20%

D. If the provider's charge for child care is greater than the maximum provider rate established by the county under part 9565.5140, families shall pay, in addition to the family copayment fee, the difference between the maximum provider rate and the provider charge.

E. If the remaining provider charge, up to the maximum provider rate established by the county under part 9565.5140, for child care services is less than \$20 upon payment of the family copayment fee, the family shall pay the remainder of the provider charge.

F. During the start-up month, the county may determine the family copayment fee but it may not establish a fee that is greater than 100 percent of the monthly copayment fee for families receiving assistance on or before the 15th of any month or greater than 50 percent of the monthly copayment fee for families receiving assistance on or after the 16th of any month.

Subp. 4. **Publication of state median income and fee schedule in *State Register*.** The department shall publish in the *State*

Register the state median income for a family of four, adjusted for family size, and a fee schedule based on the formula in subpart 3, item C, within 120 days from the date of its publication in the Federal Register by the Department of Health and Human Services. Once published in the State Register, the updated estimate of state median income shall be used for new applications and at a participating family's next redetermination to calculate a family's copayment fee beginning on the first month of the first full quarter that follows publication of the state median income in the *State Register*.

9565.5120 PAYMENT OF CHILD CARE SUBSIDY.

Subpart 1. **Payment options.** Under the basic sliding fee program and the AFDC set-aside programs, the county may make child care subsidy payments to the child care provider or directly to an eligible family to reimburse the family for child care expenditures. If the county makes child care subsidy payments directly to an eligible family, it shall establish appropriate documentation procedures to ensure that funds are used for child care. Under the public and nonprofit postsecondary student programs, the county must reimburse the provider directly.

Subp. 2. **Notification of vendor payment procedures.** If the method of payment is vendor payment, the county shall inform both the family and child care provider of the payment amount and how and when payment shall be received.

Subp. 3. **County payment schedule.** The county shall make payments at least monthly.

Subp. 4. **Sick child care.** Sick child care means child care services provided to children who as a result of illness cannot attend the family's regular provider. If required by the regular provider, child care payments shall go to the provider to hold a child care space for the sick child. In addition to making payments for regular child care, the county may pay sick child care on a limited basis. If the county chooses to pay sick child care, payment for sick child care shall be at a rate comparable to like care arrangements in the county. The county's sick child care rate shall be included in the county's annual allocation plan required under part 9565.5160.

Subp. 5. **Payment during child absences.** If required by the regular provider, child care payments shall go to the provider to hold a child care space for an absent child. Payments for child absences may be made for employer or school holidays and breaks. The total payment amount allowed to be paid from the child care fund under this subpart and subpart 4 shall not exceed five days per quarter per child.

9565.5130 ELIGIBLE PROVIDERS.

Counties must follow the procedures in items A to C in prioritizing eligible providers.

A. Providers eligible for payments under the child care fund are providers as defined in part 9565.5010, subpart 30. Counties may establish the following priority to encourage the use of licensed child care providers.

(1) When available and reasonably accessible, licensed providers with vendor contracts with the county may be used as the first choice for providing child care.

(2) If a licensed provider with a vendor contract is not available or reasonably accessible, licensed child care providers that do not have vendor contracts with the county may be used as the second choice for providing child care.

(3) If licensed child care is unavailable or is not reasonably accessible, legal nonlicensed child care providers may be used as the third choice for providing child care.

B. If a county does not establish a provider prioritization policy under item A, a family may choose a provider as the term is defined in part 9565.5010, subpart 30.

C. A county that prioritizes child care providers must submit a copy of its child care provider policy in the county allocation plan required under part 9565.5160 for commissioner approval.

9565.5140 CHILD CARE PROVIDER RATES.

Subpart 1. **Rate determination.** Each year, the commissioner shall determine the median provider charge for infants, toddlers, preschool children, and school age children in day care centers and family day care homes in each county. When the sample size for determining provider rates is too small to provide a valid statistical sample, the commissioner may establish child care provider rates based on like care arrangements in similar areas.

Subp. 2. **Establishment of maximum county child care subsidy.** Counties shall pay the provider's charges to cover all eligible hours of child care up to the maximum of 60 hours per child per week. The county board may set a maximum rate that it will pay a child care provider according to items A to F.

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A. The maximum rate for a legal nonlicensed caregiver may be set by the county but may not be less than the median rate in the county for family day care providers nor more than 125 percent of the median rate for family day care providers.

B. The rate for child care for a child with a handicap may be set by the county but not be less than the 110 percent or more than 125 percent of the median rate in the county for care of children with a handicap.

C. The maximum rate for a licensed provider may be set by the county but may not be lower than 110 percent or higher than 125 percent of the median rate determined by the department to exist for similar care arrangements in that county.

D. To be reimbursed for more than 110 percent of the median rate, a provider with employees must pay wages for teachers, assistants, and aides that are more than 110 percent of the county average rate for child care workers.

E. If the county chooses not to set a maximum rate, the maximum state participation is 125 percent of the median rate for similar care arrangements in the county. The county shall pay the difference between the provider charge and the amount of state participation.

F. If the county establishes a maximum rate, it must pay the provider's charge for each child in care up to the maximum rate unless a lesser rate is charged by the provider for multiple family members. If a provider's child care rate is less than the county's maximum rate, the county must pay the lower rate.

Subp. 3. **Maximum state participation.** The state payment is limited to the difference between the family copayment fee and the provider's charge for care up to a maximum of 125 percent of the median rate determined by the department for similar care arrangements in the county. When the provider of child care services charges more than the maximum rate set for similar care arrangements in the county, the state's payment is limited to the difference between the maximum rate set for similar care arrangements in the county and the family's copayment fee.

9565.5150 COUNTY RESPONSIBILITIES.

Subpart 1. **County child care assistance policies and procedures.** Counties shall adopt policies and procedures for providing child care subsidies to enable eligible parents, legal guardians, or AFDC caretakers to seek or retain employment or to participate in education or training programs. All county policies applied to recipients of child care subsidies must be in writing and must be included in the county's annual allocation plan required under part 9565.5160.

Subp. 2. **Child care subsidy information.** The county shall provide information on child care subsidies to child care service providers, social service agencies, and the local news media as it deems necessary to ensure the full use of its child care fund allocation.

Subp. 3. **County contracts and designation of administering agency.** Counties may contract for the administration of the child care subsidy program or may arrange for child care subsidy funds to be used by other designated programs. The county shall designate the agency authorized to administer the child care fund.

Subp. 4. **Local match.** The county shall provide a local match equal to 15 percent of the basic sliding fee program allocation during the grant year. The local match may include in-kind materials and services furnished by the county and required for the administration of the program. The local match may not include the family copayment fee.

Subp. 5. **Funding priorities.** If a county's funding allocation for child care is insufficient to address all requests for a child care subsidy, the county shall prioritize funding among all the groups eligible for assistance. The county shall include its rationale for the prioritization in its annual allocation plan. To the extent of available allocations, no eligible family may be excluded from receiving a child care subsidy.

Subp. 6. **Funding waiting list and intermittent assistance.** The county shall place on a waiting list eligible families that do not receive a child care subsidy due to insufficient funding. Families on the waiting list shall be moved into the child care subsidy program as funding permits based on the county funding priorities adopted under subpart 5. For no more than 90 days, the county may reserve a family's position in the child care subsidy program if the family has been receiving a child care subsidy but is temporarily ineligible for assistance due to a change in income or family status. The county's policy for reserving the position of families temporarily ineligible for child care assistance must be in writing and must be included in the annual allocation plan required in part 9565.5160.

Subp. 7. **Child care fund reports.** The county shall complete a child care fund program fiscal report each quarter on forms approved by the commissioner. The county must submit the child care fund program report to the commissioner no later than 20 calendar days following the end of a quarter.

Subp. 8. **Maintenance of effort.** The county shall provide the commissioner with a written statement that it has not reduced funding from other federal, state, and county sources available to it in state fiscal year 1987, that would have been available for child care services in absence of the child care fund, unless the county can demonstrate that no eligible family was refused a child care subsidy because of a shortage of funds. The county shall submit the written statement with the child care fund allocation plan.

Subp. 9. **Termination of a child care subsidy.** A county must follow the procedures in items A to D in terminating a child care subsidy.

A. The county shall notify a recipient, in writing, of termination of a child care subsidy. The notice must state the reason or reasons the assistance is being terminated. The notice shall inform the recipient of the right to contest the adverse action and the procedure for doing so. Except for cases of suspected fraud, the notice must be mailed at least 15 days before terminating assistance. In cases of suspected fraud, the termination notice must be mailed five days before the effective date of the termination.

B. Failure of a recipient to provide required information or documentation, to report changes required under part 9565.5025, subpart 3, to pay the family copayment fee or the provider charge if the state share of the subsidy is paid directly to the family is just cause for terminating assistance.

C. If the child care subsidy is made by vendor payment, the county shall inform the child care provider of the notice of termination.

D. If the recipient appeals the proposed action before the effective date of termination, the action shall not be taken until the appeal has had a fair hearing as provided under part 9565.5240, subpart 1.

9565.5160 CHILD CARE FUND ALLOCATION PLAN.

Subpart 1. **Submittal of plan.** By the date established by the commissioner each year, the county shall submit to the commissioner an annual child care fund allocation plan.

Subp. 2. **Plan content.** The allocation plan shall contain:

A. a narrative of the county's total program for child care services for job search, employment, and education or training purposes, including the amount and sources of all other funds used to provide child care services;

B. information regarding the number of families that requested a child care subsidy in the previous year, the number of eligible families the county is able to serve in each program, the county's procedure for prioritizing child care subsidies, and the number of families on a waiting list for child care subsidies;

C. methods the county uses to inform target groups of the availability of a child care subsidy and copies of county policies regarding child care services;

D. information on provider rates paid by provider type;

E. the county's policy for determining satisfactory progress in education and training programs;

F. the county's policy for approving and extending child care subsidies for parents whose education programs change;

G. the county's policy for prioritizing eligible providers, if applicable, under part 9565.5130;

H. the county's policy for providing child care assistance to families needing intermittent child care assistance under part 9565.5150, subpart 6;

I. a statement that the county has not reduced child care funding as required under part 9565.5150, subpart 8; and

J. other information, as requested by the commissioner, that describes the county's policies and procedures used to administer the child care funds.

Subp. 3. **Plan approval and amendments.** The commissioner shall inform each county of the approval of its allocation plan within 60 calendar days after the submission deadline. If the plan is not approved, the commissioner shall inform the county why the plan was not approved. No child fund allocations shall be made to a county until it has an approved allocation plan. The county may request approval to amend its child care allocation plan at any time. If approved by the commissioner, the amendment is effective on the date of approval.

9565.5170 DUTIES OF ADMINISTERING AGENCY.

Subpart 1. **Application forms and child care subsidy information.** The administering agency shall offer by hand or mail, a child care subsidy application form to an applicant if funds are available or the family requests an application. The administering agency shall provide the family with information supplied by the department regarding the availability of federal and state child care tax credits and federal earned income tax credits. At the time of the request, the administering agency shall inform the family of the following:

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A. the eligibility requirements for participating in the child care subsidy program and documentation necessary to confirm eligibility;

B. the existence of a child care subsidy waiting list and the number of families on the waiting list;

C. the procedure for applying for a child care subsidy; and

D. the family copayment fee schedule and how the fee is computed.

Subp. 2. **Application procedure.** An administering agency must follow the application procedures in items A to D.

A. If it appears that a family is eligible for a child care subsidy and funds are available or if a family requests an application, the administering agency shall mail or hand the family a child care subsidy application.

B. If a family requests child care assistance and funds are not available, the administering agency shall inform the family of a waiting list, screen the family for potential eligibility, and place the family on the waiting list if they appear eligible.

C. If child care funds become available, the administering agency shall inform the family at the head of the waiting list and ask the family to complete an application. The administering agency shall accept signed and dated applications that are submitted by mail or delivered to the agency within 15 days after the date of signature. The administering agency shall mail a notice of approval or denial of assistance to the applicant within 30 calendar days after receiving the application. With the consent of the applicant, the administering agency may extend the response time by 15 calendar days.

D. The administering agency shall document the reason or reasons for denying an application for child care assistance, shall inform the applicant of the reason for denial, and shall inform the applicant of the right to a fair hearing under part 9565.5240.

Subp. 3. **Date of eligibility for assistance.** The date of eligibility for child care assistance is the later of the date the application was signed; the beginning date of employment, education, or training; or the date a determination has been made that the applicant is a participant in employment and training programs under Minnesota Statutes, section 256.736. The notice of approval of the application must state the following:

A. the beginning and final date of the eligibility period; and

B. that any change in income, address, family size, and employment, education, or training status must be reported within ten calendar days from the date the change occurs.

9565.5180 DETERMINATION OF INCOME ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Subpart 1. **Proof of income eligibility.** An applicant requesting a child care subsidy must provide proof of income eligibility. For the purpose of determining income eligibility, annual income of the applicant family is the income of the family for the current month multiplied by 12, the income for the 12-month period immediately preceding the date of application, or the income for the time period that provides the most accurate assessment of annual income available to the family. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of income.

Subp. 2. **Evaluation of income of AFDC families.** The administering agency shall determine the income of AFDC families based on AFDC requirements under parts 9500.2000 to 9500.2880.

Subp. 3. **Evaluation of income of non-AFDC families.** The administering agency shall determine income received or available to a non-AFDC family according to subparts 4 to 13. All income, unless specifically excluded in subpart 6, must be counted as income.

Subp. 4. **Determination of annual gross income.** The income standard for determining eligibility for a child care subsidy is annual gross income. Annual gross income is the sum of gross earned income, self-employment income, unearned income, and lump sum payments. Gross earned income, self-employment income, unearned income, and lump sum payments must be calculated separately.

Subp. 5. **Gross earned income of wage and salary employees.** Gross earned income means earned income from employment before mandatory and voluntary payroll deductions. Gross earned income includes, but is not limited to, salaries, wages, tips, gratuities, commissions, incentive payments from work or training programs, payments made by an employer for regularly accrued vacation or sick leave, and profits from other activity earned by an individual's effort or labor. Gross earned income includes uniform and meal allowances if federal income tax is deducted from the allowance. Gross earned income includes flexible work benefits received from an employer if the employee has the option of receiving the benefit or benefits in cash. Gross earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when payments are received over a lesser period of time.

Subp. 6. **Excluded income.** The administering agency shall exclude items A to G from annual gross income:

A. scholarships and grants that cover costs for tuition, fees, books, and educational supplies;

- B. student loans for tuition, fees, books, supplies, and living expenses;
- C. in-kind income such as food stamps, energy assistance, medical assistance, and housing subsidies;
- D. income from summer or part-time employment of 16, 17, and 18-year-old full-time secondary school students;
- E. grant awards under the family subsidy program;
- F. nonrecurring lump sum income that is earmarked and used for the purpose for which it is paid; and
- G. child or spouse support paid to a person or persons who live outside of the household.

Subp. 7. **Earned income from self-employment.** In determining annual gross income for purposes of eligibility under this part, the administering agency shall determine earned income from self-employment. Earned income from self-employment is the difference between gross receipts and authorized self-employment expenses which may not include expenses under subpart 8. Self-employment business accounts must be kept separate from the family's personal checking and savings accounts. If the person's business is a partnership or a corporation and that person is drawing a salary, the salary shall be treated as gross earned income under subpart 5.

Subp. 8. **Self-employment deductions which are not allowed.** In determining eligibility under this part, self-employment expenses must be subtracted from gross receipts. However, the expenses listed in items A to M shall not be subtracted from gross receipts:

- A. purchases of capital assets;
- B. payments on the principal of loans for capital assets;
- C. depreciation;
- D. amortization;
- E. the wholesale costs of items purchased, processed, or manufactured that are unsold inventory with a deduction for the costs of those items allowed at the time they are sold;
- F. transportation costs that exceed the amount allowed for use of a personal car in the United States Internal Revenue Code;
- G. the cost of transportation between the individual's home and his or her place of employment;
- H. salaries and other employment deductions made for members of a family for whom an employer is legally responsible;
- I. monthly expenses greater than \$71 for each roomer;
- J. monthly expenses greater than \$86 for each boarder;
- K. monthly expenses greater than \$157 for each roomer-boarder;
- L. annual expenses greater than \$103 or two percent of the estimated market value on a county tax assessment form, whichever is greater, as a deduction for upkeep and repair against rental income; and
- M. expenses not allowed by the United States Internal Revenue Code for self-employment income.

Subp. 9. **Self-employment budget period.** Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month the expenses are paid except for items A to C.

A. The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

B. Expenses to cover employee FICA, employee tax withholding, sales tax withholding, employee worker's compensation, employee unemployment compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which the payment for these items is made.

C. Gross receipts from self-employment may be prorated forward to equal the period of time over which the expenses were incurred. However, gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

Subp. 10. **Determination of farm income.** Farm income must be determined for a one-year period. Farm income is gross receipts minus operating expenses, except for expenses listed in subpart 8. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from livestock, and income from the sale of home-produced foods.

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Subp. 11. **Determination of rental income.** Income from rental property is considered self-employment earnings when the owner spends an average of ten or more hours per week on maintenance or management of the property. The administering agency shall deduct an amount for upkeep and repairs according to subpart 8, item L, for real estate taxes, insurance, utilities, and interest on principal payments. When a family lives on the rental property, the administering agency shall divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of units to determine the expense per unit. The administering agency shall deduct expenses from rental income only for the number of units rented, not for units occupied by family members. When an owner does not spend an average of ten or more hours per week on maintenance or management of the property, income from rental property is considered unearned income. The deductions described in this subpart are subtracted from gross rental receipts.

Subp. 12. **Determination of unearned income.** Unearned income includes, but is not limited to, interest, dividends, unemployment compensation, disability insurance payments, veteran benefits, pension payments, child support and spousal support received or anticipated to be received by a family, insurance payments or settlements, and severance payments. Expenditures necessary to secure payment of unearned income are deducted from unearned income. Payments for illness or disability, except for those payments described as earned income in subpart 5, are considered unearned income whether the premium payments are made wholly or in part by an employer or by a recipient.

Subp. 13. **Treatment of lump sum payments.** Lump sum payments received by a family must be considered earned income under subparts 7 to 11 or unearned income according to subpart 12.

9565.5190 REDETERMINATION OF ELIGIBILITY.

The county or postsecondary educational institution shall redetermine a family's eligibility for a child care subsidy and the family's copayment fee when notified by the family of a change in the information required to be reported in part 9565.5025, subpart 3, or at least every six months, whichever occurs first.

A redetermination of eligibility shall not be treated as a new application for child care assistance. If, as a result of redetermination of eligibility, a family is found to be ineligible for further child care assistance, the county or postsecondary educational institution shall terminate the child care assistance as provided in part 9565.5150, subpart 9.

9565.5200 QUARTERLY FINANCIAL AND PROGRAM ACTIVITY REPORTS.

Counties shall submit, on forms prescribed by the commissioner, a quarterly financial and program activity report. The report is due within 20 calendar days after the end of each quarter. The financial and program activity report must include:

- A. a detailed accounting of the expenditures and revenues for the child care subsidy program during the preceding quarter by funding source and eligibility group;
- B. a description of child care activities and expenditures that are federally reimbursable under the AFDC employment special needs program or other federal reimbursement programs;
- C. a description of child care activities and expenditures of set-aside money;
- D. information on money encumbered at the quarter's end but not yet reimbursable, for use in adjusting allocations as provided in parts 9565.5030, subpart 6; 9565.5080, subpart 8; and 9565.5090, subpart 13; and
- E. other information concerning financial or program activity as requested by the department.

9565.5210 QUARTERLY PAYMENTS.

The commissioner shall make payments to the counties in quarterly installments. The commissioner may certify an advance to the counties for the first quarter of the fiscal year. Payments made to the counties after the first quarter shall be based on actual expenditures as reported by the counties in the quarterly financial and program activity report required under part 9565.5200.

9565.5220 NOTICE OF NONCOMPLIANCE; FUNDING SANCTIONS.

If the commissioner finds that a county or postsecondary institution is not complying with parts 9565.5000 to 9565.5240, the procedures in items A to F apply.

A. The commissioner shall notify the county or the postsecondary institution, by certified mail, of the rule part that the county or postsecondary institution has not complied with.

B. Within 30 days after receiving the notice, the county or postsecondary institution must demonstrate to the commissioner that it is in compliance with the rule or must develop a correction plan to address the noncompliance. If the county or postsecondary institution can demonstrate compliance, the commissioner shall not take any further action.

C. If the county or postsecondary institution submits a correction plan, the commissioner shall approve or disapprove the correction plan within 30 days after the date that it is received. If the commissioner approves the correction plan submitted by the county or postsecondary institution, the county or postsecondary institution shall have 90 days after the date of approval to implement the correction plan.

D. If the county or postsecondary institution fails to demonstrate compliance or fails to implement the correction plan approved by the commissioner, the commissioner may withhold the county's or postsecondary institution's child care fund allocations until the county or postsecondary institution is in compliance with the statute or rule.

E. Funds withheld from a county under this part may be reallocated to other counties based on the formula in Minnesota Statutes, section 256H.03, subdivision 2. Funds withheld from a postsecondary institution may be reallocated to other postsecondary institutions based on the formula in Minnesota Statutes, section 256H.07, subdivision 1.

F. Counties and postsecondary institutions may appeal the sanction in accordance with Minnesota Statutes, chapter 14, for contested cases.

9565.5230 AUDIT EXCEPTIONS.

The commissioner shall recover from counties and postsecondary institutions state or federal money spent for child care that is ineligible under parts 9565.5000 to 9565.5240. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

9565.5240 FAIR HEARING PROCESS.

Subpart 1. **Hearing request.** An applicant or recipient of a child care subsidy adversely affected by an administering agency's action may request a fair hearing according to Minnesota Statutes, section 256.045, subdivision 3.

Subp. 2. **Informal conference.** The administering agency shall offer an informal conference to persons adversely affected by an agency action to attempt to resolve the dispute. The administering agency shall advise adversely affected persons that a request for a conference with the agency is optional and does not delay or replace the right to a fair hearing under subpart 1.

Department of Human Services

Proposed Permanent Rules Relating to Grants for Child Care Resource and Referral Programs and Child Care Services

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Department of Human Services intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 245.872; 256H.20, subdivision 4; the *Laws of Minnesota* 1988, chapter 689, article 2, section 266.

All persons have 30 days or until 4:30 p.m. on May 17, 1989 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Jim Schmidt
Minnesota Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
(612) 296-7815

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The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

The proposed permanent rule establishes requirements governing state grants for child care services.

Under the child care resource and referral grant program, public and private nonprofit agencies may submit grant proposals to establish, expand, improve, or operate a child care resource and referral program or to plan a resource and referral program where no program currently exists. Funding for grant proposals is contingent on legislative appropriations.

The rule part governing child care resource and referral grants establish requirements for submitting grant proposals; describes information that grant applicants must submit as part of their grant proposal; sets forth standards and requirements regarding the resource file, the referral process, and the provision of services; sets limits on the dollar amount of the grant; requires a 25 percent local match; requires grant applications to demonstrate that funding will be available to continue the program for two years after the state grant is discontinued; requires the grant proposals to be ranked by an advisory task force established under *Minnesota Statutes*, section 245.872, subdivision 3; sets forth criteria the advisory task force shall use to rank grant proposals; places restrictions on grant recommendations by advisory task force members; requires the Commissioner to award grants based on the recommendation of the advisory task force; requires grant recipients to maintain expenditure records; and authorizes audits of grant expenditures.

Under the child care services grant program, public and private nonprofit agencies, employers, for profit day care centers, family day care providers, and applicants in the process of obtaining a child care license may submit grant proposals to help the grantee meet or exceed child care licensing requirements, to fund physical plant improvements, to expand or improve a licensed child care program, to purchase equipment, or to fund child care training. Funding of child care services grant proposals is contingent on legislative appropriations.

The rule part governing child care services grants establish requirements for submitting grant proposals; describes information that grant applicants must submit as part of their grant proposal; creates a special category of mini-grants up to \$1,000; establishes priorities for awarding grants; requires a 25 percent local match for all child care services grants except the mini-grant; establishes requirements for grants for facility improvement expenses, interim financing, staff training and development, and mini-grants; requires grant proposals to be ranked by an advisory task force established under *Minnesota Statutes*, section 245.872, subdivision 3; sets for criteria the advisory task force shall use to rank grant proposals; places restrictions on grant recommendations by advisory task force members; requires the Commissioner to award grants based on the recommendations of the advisory task force; requires grant recipients to maintain expenditure records; and authorizes audits of grant expenditures.

The rule also defines terms used in the rule.

A free copy of the rule is available upon request from Jim Schmidt, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816. A copy of the rule may also be viewed at any of the 87 county welfare or human services agencies in the State of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Jim Schmidt, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816 upon request.

Adoption of these rules will not result in additional spending by local public bodies.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or wish to receive a copy of the adopted rule, must submit the written request to Jim Schmidt, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155-3816.

Sandra A. Gardebring
Commissioner

Rules as Proposed (all new material)

9565.5500 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9565.5500 to 9565.5520, the following terms have the meanings given them in this part.

Subp. 2. **Child.** "Child" means a person 12 years old or younger or a person 14 years old or younger who is handicapped, as defined in Minnesota Statutes, section 120.03.

Subp. 3. **Child care.** "Child care" means the care of a child by someone other than a parent, legal guardian, or AFDC caretaker outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subp. 4. **Child care services.** "Child care services" means licensed child care provided in family day care homes, group family

day care homes, nursery schools, day nurseries, child day care centers, head start, and school age child care programs legally exempt from licensure under Minnesota Statutes, section 245A.03, subdivision 2, clauses (5) and (12).

Subp. 5. **Child care worker.** "Child care worker" means a person who cares for children for compensation, including a licensed provider of child care services, an employee of a provider, and a person who has applied for a license as a provider.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 7. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 8. **Development region.** "Development region" means a development region as defined in Minnesota Statutes, section 462.384, subdivision 5.

Subp. 9. **Facility improvement expenses.** "Facility improvement expenses" means building improvements, equipment, toys, and supplies needed to establish, expand, or improve a licensed child care facility.

Subp. 10. **Interim financing.** "Interim financing" means funds to carry out activities necessary for family day care homes, group family day care homes, and child care centers to receive and maintain state licensing; to expand an existing program or to improve program quality; and to provide operating funds for no more than six consecutive months after a family day care home, group family day care home, or child care center has received a license from the commissioner.

Subp. 11. **Local match.** "Local match" means a nonstate source of funds used to match state grants-in-aid funds. Local match may include, but is not limited to, federal funds, fees for services, local tax levies, foundation money, or private contributions. In-kind donations or services are acceptable as local match provided the local match is directly related to the purpose of the state grant.

Subp. 12. **Mini-grant.** "Mini-grant" means a special category of funding under the child care services grants program that may be used by the grantee for facility improvements, start-up costs, interim financing, or staff training and development.

Subp. 13. **Resource and referral program.** "Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. Services include parent education, technical assistance for providers and employers, information regarding staff development programs, and referrals to social services.

Subp. 14. **Staff training or development expenses.** "Staff training or development expenses" means the cost to a child care worker of tuition, transportation, required materials and supplies, and wages for a substitute while the child care worker is engaged in a training program.

Subp. 15. **Training program.** "Training program" means child development courses and training courses that meet the requirements of part 9502.0385 or 9503.0035. To qualify as a training program under this subpart, a course of study must teach specific skills that a child care worker needs to meet licensing requirements.

9565.5510 CHILD CARE RESOURCE AND REFERRAL PROGRAM GRANTS.

Subpart 1. **Availability of resource and referral program grants.** As provided in Minnesota Statutes, sections 245.872 and 256H.20, resource and referral program grants are available to public or private nonprofit agencies for establishing, expanding, improving, or operating a resource and referral program and for planning a resource and referral program where no program currently exists.

Subp. 2. **Federal funds; grant requirements.** Federal funds received for planning, developing, establishing, expanding, or improving local resource and referral and school age child care services that are available as grants under subpart 1 must be expended according to federal requirements and, unless contrary to federal requirements, according to subparts 3 to 16. Applications for grants using federal funds shall include assurances that all federal grant requirements will be met.

Subp. 3. **Grant proposals.** Resource and referral program grant proposals must be submitted by a public or private nonprofit agency to the commissioner on or before the date specified by the commissioner in the grant announcement. A public or private nonprofit agency must submit proof of its nonprofit status at the time of its grant request and shall include in its grant proposal the dollar amount of any resource and referral grants received in the previous three years and any pending grant applications that, if received, would duplicate or complement the resource and referral grant.

Subp. 4. **Geographical area of service.** A public or private nonprofit agency receiving a resource and referral program grant

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must provide service to the geographical area identified in the grant proposal as approved by the commissioner. The commissioner shall only award funds to support the operation of one resource and referral program per service area.

Subp. 5. Requirements of grant recipients. A public or private nonprofit agency receiving resource and referral program grant funds must comply with the requirements in subparts 6 to 9.

Subp. 6. Development of resource file and referral process. A public or private nonprofit agency receiving a resource and referral grant shall:

A. maintain a resource file that includes the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, and transportation available to the program;

B. update the resources file at least every three months;

C. publicize its services through popular media sources, social service agencies, employers, and other appropriate methods approved by the commissioner;

D. design services to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources;

E. establish a referral process that responds to parental need while fully recognizing the confidentiality rights of parents;

F. afford parents maximum access to referral information including telephone referral services for 20 or more hours per week;

G. provide child care resource and referral information to all persons requesting services and technical assistance to all types of child care providers and employers;

H. demonstrate that funding will be available to continue the program for at least two years following the state grant; and

I. develop a resource file of child care services provided by all licensed or legally operating public and private agencies within its service area. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, toddler, preschool, and extended care programs; and programs for school age children. The resource file may also include information on legally unlicensed providers and in-home providers who are legally exempt from licensure.

Subp. 7. Documentation of service requests. The child care resource and referral agency must maintain a written record of the number of calls and contacts for service. Information documented must include the ages of children served; the time category of child care requested for each child; special time categories such as nights, weekends, and swing shifts; and the reason that child care is needed. The information must also contain the names and addresses of clients to allow follow-up evaluation of the resource and referral service.

Subp. 8. Educational information available to parents. The child care resource and referral agency shall have the following educational information available for parents:

A. information and criteria for assessing and evaluating the quality and suitability of child care services including licensing regulations, availability of financial assistance, child abuse reporting procedures, and child development information; and

B. information on available parent, early childhood, and family education programs in the community and community resources for developmental assessment of children.

Subp. 9. Technical assistance to providers and employers. The child care resource and referral agency shall provide technical assistance to employers and existing and potential providers of all types of child care services. The technical assistance shall include:

A. information on all aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

B. information and resources that help existing child care providers to maximize their ability to serve the children and parents of their community including information to child care workers on child care training opportunities and child care courses and on financial aid available from postsecondary institutions;

C. dissemination of information on current public issues affecting the local and state delivery of child care services;

D. facilitation of communication between existing child care providers and child care-related services in the community served;

E. recruitment of licensed providers; and

F. employer child care options, and the benefits available to employers using the various options to expand child care services to employees.

Subp. 10. Grant allocation. The commissioner may allocate up to 25 percent of the funds appropriated to develop child care services under Minnesota Statutes, section 245.872, for resource and referral programs.

Funds made available under Minnesota Statutes, section 245.872, for resource and referral program grants shall be allocated to development regions according to the formula in Minnesota Statutes, section 245.872, subdivision 2. Funds allocated to a development region that exceed grant requests or that were not used for grants due to an applicant's failure to comply with requirements under the grant proposal may be used to fund grant proposals in other development regions. Child care services funds made available for resource and referral program grants in excess of grants approved by the commissioner shall be used for child care services under part 9565.5520.

The commissioner shall allocate funds appropriated or received under Minnesota Statutes, section 256H.20, for resource and referral programs. The commissioner may allocate up to 75 percent of the funds appropriated under Minnesota Statutes, section 256H.20, for grants to plan or start up resource and referral programs. The commissioner shall allocate the remaining funds for grants to expand, improve, or operate ongoing resource and referral programs. Resource and referral program grants available under Minnesota Statutes, section 256H.20 shall be awarded on a statewide basis based on the quality of the grant proposals. Funds allocated for planning and start-up grants in excess of grant requests may be used to fund grant proposals for ongoing programs.

Subp. 11. Maximum grant amount and match requirements. The maximum child care resource and referral program grant the commissioner may award an agency to establish, improve, expand, or operate an existing child care resource and referral service is \$60,000 per year. The maximum grant the commissioner may award a public or private nonprofit agency to plan a resource and referral program is \$10,000 per year. Except for planning grants, a public or private nonprofit agency receiving a child care resource and referral grant must match those funds with a local match of 25 percent and must demonstrate that funding will be available to continue the program for two years after the state grant is discontinued. A public or private nonprofit agency receiving a grant to plan a resource and referral program must match those funds with a local match of 25 percent and must demonstrate that it has the expertise and organizational ability to complete the planning proposal within a maximum period of two years.

Subp. 12. Resource and referral grant proposal ranking. Grant proposals that meet the requirements of subparts 6 to 9 shall be ranked by an advisory task force established under Minnesota Statutes, section 245.872, subdivision 3. The advisory task force shall use the criteria in items A to G to rank the grant proposals.

A. The grant applicant's ability to demonstrate the need for a child care resource and referral program in the geographical area to be served under the grant. Grants shall be awarded to only one resource and referral program per service area.

B. The extent that the program budget and grant proposal is complete, reasonable, and able to achieve the program's stated objectives.

C. The ability of the grant applicant to demonstrate that the program and nonstate funding for the program will continue for at least two years following the state grant.

D. The ability of the grant applicant to demonstrate support from the county social services agency, parent groups, schools, licensed child care providers, and community child care organizations.

E. The organizational structure of the resource and referral program and its capability to achieve the goals of the resource and referral program.

F. The ability of the program to meet reporting and data collection requirements of the commissioner.

G. The detailed description of the grant proposal as it relates to the child care resource and referral program with particular emphasis on:

- (1) defining the geographical service area;
- (2) identifying existing child care services;
- (3) maintaining and updating the resource file;
- (4) establishing a referral process that responds to parental need and recognizes the parents' right of confidentiality;
- (5) documenting parental requests for service and education aids;
- (6) providing technical assistance to employers and all existing and potential providers of child care; and
- (7) announcing service availability through popular media sources, social agencies, employers, and child care providers.

Subp. 13. Restriction on grant recommendations by advisory task force. Members of the advisory task force with a direct financial interest in a pending resource and referral grant proposal may not provide a recommendation or participate in the ranking

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of that grant proposal. A direct financial interest includes, but is not limited to, employment with the program or a financial interest in the program, membership on the program's board of directors, or employment of a family member in or by the program. A family member employed in or by the program includes any person related to an advisory task force member by blood or marriage within the third degree of consanguinity.

Subp. 14. **Awarding of grants.** The commissioner shall award resource and referral program grants based on the recommendations of the grant advisory task force.

Subp. 15. **Expenditure records.** The recipient of a child care resource and referral grant shall maintain a record of all expenditures under the resource and referral program. The department is not liable for costs incurred by an applicant before issuance of a resource and referral grant contract signed by the commissioner or the commissioner's designated representative.

Subp. 16. **Audit of grant expenditures.** The commissioner may audit the expenses of a grant recipient during the grant period and during the 12 months immediately following the close of the grant period. The grantee shall provide the commissioner with copies of invoices and receipts of expenditures under the resource and referral grant. The grantee shall reimburse the department for any expenditure of grant funds unauthorized by the resource and referral grant contract.

9565.5520 GRANTS FOR CHILD CARE SERVICES.

Subpart 1. **Child care services grants.** Child care services grants are available for facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. In addition, as provided under subparts 15 to 18, child care services grants of up to \$1,000 per grantee may be made available to help a grantee meet or exceed child care licensing requirements, to fund physical plant improvements, to expand or improve a licensed child care program, to purchase equipment, or to fund child care training.

Subp. 2. **Allocation of funds.** The commissioner shall allocate grant money appropriated for child care services as provided in Minnesota Statutes, section 245.872, subdivision 2. The commissioner may allocate up to 25 percent of the available funds for child care resource and referral programs as provided in part 9565.5510, subpart 10. The remaining funds shall be allocated for facility improvements, interim financing, child care staff training, and mini-grants. The commissioner shall not allocate more than 75 percent of the remaining funds for either child care facilities or staff training. Funds allocated to a development region in excess of a region's request for child care service development grants or where grants were not awarded due to an applicant's failure to comply with the requirements under the grant proposal may be used to fund child care service development grant proposals in other development regions. Funds allocated for child care service development program grants in excess of grants approved by the commissioner may be used for child care resource and referral programs under part 9565.5510.

Subp. 3. **Eligible grant recipients.** Eligible recipients of child care service grants are licensed providers of child care, applicants in the process of obtaining licensure, and organizations providing child care services to providers. If a grant applicant is in the process of obtaining licensure, the applicant must provide assurance of being able to meet licensure requirements and must verify that a completed application has been received by the county social service agency's family day care licensor or by the Department of Human Services, Division of Licensing. With the exception of mini-grants, priority for awarding child care services grants shall be given to grant applicants in the order they appear below:

- A. public and private nonprofit agencies;
- B. employer-based day care centers;
- C. other for-profit day care centers; and
- D. family day care providers.

Subp. 4. **Grant proposals.** Child care services grant proposals must be submitted to the commissioner on or before the date specified in the child care services grant announcement and must include information on any previous grant received in the past three years and any other pending grant request. A nonprofit organization must include proof of its nonprofit status at the time of the grant request. For-profit businesses and corporations shall indicate whether they are an employer-based day care center, other for-profit day care center, or a family day care provider at the time of the grant request.

Subp. 5. **Grant match requirements.** Child care services grants for facility improvements, interim financing, and staff training and development require a 25 percent local match by the grant applicant. A local match is not required for a mini-grant.

Subp. 6. **Grants for facility improvement expenses.** Child care services grants for facility improvement expenses must be used by the grantee for building improvements, equipment, toys, or supplies needed to establish, expand, or improve a licensed child care facility.

Subp. 7. **Grants for interim financing.** Child care services grants for interim financing must be used by the grantee to carry out activities necessary for family day care homes, group family day care homes, and child care centers to receive and maintain state licensing; to expand an existing child care program; to improve program quality; or to provide operating funds following receipt of state licensing. Interim financing grants providing operating funds may not be awarded for more than six consecutive months following

receipt of state licensing. Interim financing grants used by the grantee to meet conditions necessary to receive or maintain state licensing, to expand an existing program, or to improve program quality may not be awarded for more than 18 months.

Subp. 8. Grants for staff training and development. Child care services grants for staff training and development must be used by the grantee to upgrade staff qualifications with priority given to staff training and development necessary to meet licensure requirements. Staff training and development includes, but is not limited to, training to obtain child development associate certification, training of new and existing providers, recruiting new providers, and staff development to retain quality providers.

Subp. 9. Facility improvement and interim financing grant proposals. A proposal for a facility improvement grant or interim financing grant shall include:

- A. documentation of need for the grant;
- B. documentation of the number of children and the age groups the grant applicant is licensed to serve;
- C. the ages of children the provider currently serves;
- D. the age group of children the provider intends to serve after the expenditure of the facility improvement or interim financing grant;
- E. a schedule for making improvements or for expending the grant funds;
- F. budget information submitted with the grant proposal that includes a line item budget specifying projected costs for:
 - (1) building improvement;
 - (2) staff salary and benefits;
 - (3) supplies;
 - (4) program materials;
 - (5) rent, if applicable;
 - (6) utilities;
 - (7) equipment; and
 - (8) the need for interim financing, if applicable; and
- G. documentation of any state funding assistance received in the previous three years.

Subp. 10. Facility improvement and interim financing priorities. Facility improvement and interim financing grant proposals shall be evaluated by an advisory task force established under Minnesota Statutes, sections 245.872, subdivision 3. In evaluating proposals for facility improvement and interim financing grants, the advisory task force shall use the following priorities to rank grant proposals for each group listed in subpart 3:

- A. proposals submitted to meet licensure requirements;
- B. proposals submitted to start new programs or projects;
- C. proposals submitted to expand license spaces;
- D. proposals submitted to fund programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;
- E. proposals submitted for programs and projects that serve sick children, infants, toddlers, children with special needs, and children from low-income families;
- F. proposals submitted to enrich existing programs or projects; and
- G. other information requested by the commissioner in the request for proposals necessary to assess the quality of the proposal.

Subp. 11. Ranking facility improvement and interim financing grant proposals. Facility improvement and interim financing grant proposals shall be ranked by the advisory task force based on the priorities established under subpart 10 and the completeness of the documentation required under subpart 9 for each group listed in subpart 3. Nothing in this subpart shall require the task force to recommend or rank a facility improvement or interim financing grant proposal that does not meet the grant proposal requirements under subpart 9.

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Proposed Rules

Subp. 12. **Staff training and development grant proposals.** A proposal for a staff training and development grant shall include:

- A. the name of the provider or organization and the amount of grant funds the applicant is applying for;
- B. an explanation of why the grant is needed and how the grant funds will be used;
- C. a detailed description of the training course with an explanation of how the course work will meet licensure requirements or improve child care services;
- D. a detailed budget estimate of the training expenses including the proposed schedule for expending the funds, local match, and other sources of funding the applicant has received or applied for;
- E. the length of time the applicant has provided licensed child care, if applicable, and the number and ages of children served; and
- F. the length of time the applicant intends to provide child care services, if applicable, after completing the staff training and development course.

Subp. 13. **Staff training and development grant proposal priorities.** Staff training and development grant proposals shall be evaluated by an advisory task force established under Minnesota Statutes, section 245.872, subdivision 3. In evaluating proposals for staff training and development grants, the advisory task force shall use the following priorities to rank grant proposals for each group listed in subpart 3:

- A. staff training and development proposals from applicants who will work in geographic areas where there is a shortage of child care;
- B. proposals from unlicensed providers who wish to become licensed;
- C. proposals from public or private nonprofit agencies that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the public or private nonprofit agency;
- D. proposals from child care providers seeking accreditation or child care credentials; and
- E. proposals from applicants who will work in facilities caring for sick children, infants, toddlers, children with special needs, and children from low-income families.

Subp. 14. **Ranking staff training and development grant proposals.** Staff training and development grant proposals shall be ranked by the advisory task force based on the priorities established under subpart 13 and the completeness of the documentation required under subpart 12 for each group listed in subpart 3. Nothing in this subpart requires the task force to recommend or rank a staff training and development grant proposal that does not meet the grant proposal requirements under subpart 12.

Subp. 15. **Mini-grants for child care service development.** Mini-grants for child care service development must be used by the grantee for facility improvements, including, but not limited to, improvements to meet licensing requirements, improvements to expand the facility, and toys and equipment; start-up costs; interim financing; or staff training and development.

Subp. 16. **Mini-grant proposals.** A mini-grant proposal must contain the following information:

- A. the name of the provider or organization and the amount of grant funds the applicant is applying for;
- B. an explanation of why the grant is needed and how the grant funds will be used;
- C. a detailed budget estimate including the proposed schedule for expending the funds and any other sources of funding including state funds the applicant has received or applied for in the previous three years;
- D. the length of time the applicant has provided licensed child care, if applicable, and the number and ages of children served; and
- E. the length of time the applicant intends to provide child care services.

Subp. 17. **Mini-grant priorities.** Priority for service development mini-grants shall be given to grant applicants in the following order:

- A. family day care providers;
- B. public and private nonprofit agencies;
- C. employer-based day care centers; and
- D. other for-profit day care centers.

Subp. 18. **Ranking mini-grant proposals.** Mini-grant proposals shall be evaluated by an advisory task force established under Minnesota Statutes, section 245.872, subdivision 3. In evaluating mini-grant proposals, the advisory task force shall consider the completeness of documentation for items A to D in ranking mini-grant proposals for each of the groups listed in subpart 17:

- A. physical plant improvement, equipment, or training needed to meet or exceed licensure requirements;

B. budget information submitted with the grant request;

C. documentation of pending or past negative licensing action by the licensor, if any, and improvements required by the licensor; and

D. child care needs in the service area.

Subp. 19. **Restriction on grant recommendations by advisory task force members.** Members of the advisory task force with a direct interest in a pending child care service development grant proposal may not provide a recommendation or participate in the ranking of that grant proposal. A direct interest includes, but is not limited to, employment with the program or a financial interest in the program, membership on the program's board of directors, or a family member employed in or by the program. A family member employed in or by the program includes any person related to an advisory task force member by blood or marriage within the third degree of consanguinity.

Subp. 20. **Awarding of grants.** The commissioner shall award child care service development grants based on the recommendations of the grant advisory task force.

Subp. 21. **Grant expenditure records.** The recipient of a child care services grant shall maintain a record of all expenditures under the grant proposal. The department is not liable for costs incurred by an applicant before issuance of a child care services grant contract signed by the commissioner or the commissioner's designated representative or the letter of award for a mini-grant proposal.

Subp. 22. **Audit of grant expenditures.** The commissioner may audit the expenses of a grant recipient during the grant period and during the 12 months immediately following the close of the grant period. The grantee shall provide the commissioner access to records concerning grant expenditures. The grantee shall reimburse the department for any expenditure of grant funds unauthorized under the terms of the contract or for failing to meet the terms of the contract.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Commerce

Adopted Permanent Rules Relating to Group Insurance Replacement

The rule proposed and published at *State Register*, Volume 13, Number 20, pages 1175-1176, November 14, 1988 (13 S.R. 1175) is adopted with the following modifications:

Rules as Adopted

2755.0400 LIABILITY OF PRIOR CARRIER.

The prior carrier remains liable to the extent of its accrued liability and any contractual liability for extension of benefits at the time of replacement. "Accrued liability" includes, but is not limited to, responsibility for covered inpatient expenses, subject to applicable deductibles, copayments, and limitations, incurred by a covered individual who is an inpatient on the date of replacement. The responsibility on the part of the prior carrier continues until the covered individual is discharged from the ~~hospital~~ inpatient facility or contract maximums have been reached, whichever first occurs.

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Adopted Rules

Occupational Safety and Health Review Board

Adopted Permanent Rules Relating to the Occupational Safety and Health Review Board

The rules proposed and published at *State Register*, Volume 13, Number 22, pages 1266-1270, November 28, 1988 (13 S.R. 1266) are adopted with the following modifications:

Rules as Adopted

OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

5215.0711 SERVICE AND NOTICE TO UNREPRESENTED EMPLOYEES.

Subpart 1. **Notice of contest or petition for abatement date.** If there are any affected employees who are not represented by an authorized employee representative, the employer shall, within ~~two~~ five working days of receiving the acknowledgment of the notice of contest or petition for modification of abatement date, post, where the citation is required to be posted, a copy of the notice of contest and a notice informing affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times.

If, because of the nature of the employer's operations, it is not practicable to post the notice of contest and notice to employees at or near the worksite, the notice must be posted in a prominent place where it can be readily observable by all affected employees. ~~For example,~~ If employers are engaged in activities which are physically dispersed, these notices must be posted at the location to which employees report each day. If employees do not primarily work at or report to a single location, these notices must be posted at the location from which the employees operate to carry out their activities. If the employer's operation at the cited worksite ceases and affected employees are no longer employed by that employer, the employer must serve a copy of the notice of contest and notice to employees on all affected employees either by hand delivery or by mail to the last known address.

A notice in the following form complies with this subpart:

(Name of employer)

Your employer has been cited by the commissioner of labor and industry for violation of the Minnesota Occupational Safety and Health Act of 1973. The citation has been contested and may be the subject of a hearing. Affected employees are entitled to participate in this hearing as parties in the rules of procedure established by the Occupational Safety and Health Review Board. Notice of intent to participate should be sent to: Executive Secretary, Occupational Safety and Health Review Board, 443 Lafayette Road, Saint Paul, MN ~~55104~~ 55155, or any other address that the review board has. The notice of intent to participate must contain the employees' names, addresses, representatives, if any, and a statement that they are affected employees of the cited employer.

All papers relevant to this matter may be inspected at:

(Place reasonably convenient to employees, preferably at or near workplace.)

Service and notice to affected employees not represented by an authorized employee representative are deemed accomplished by posting.

Certification of the posting required in this subpart must be filed with the executive secretary of the board within five working days of receipt of the acknowledgment of the notice of contest. If the employer fails to certify the posting in the prescribed manner, the board may issue an order to show cause why the contest should not be dismissed on the grounds that the employer has failed to comply with the posting requirements. If the employer fails either to show cause or to certify that the notice of contest ~~has been~~ was posted within the time prescribed by this part, the administrative law judge may dismiss the notice of contest. In those cases where an employer has a demonstrated history of failing to certify that the notice of contest has been posted timely, the employer must show cause and certify that the notice of contest ~~has been~~ was posted within the time prescribed by this part to avoid dismissal of the notice of contest.

Subp. 2. **Notice of hearing.** A copy of the notice of hearing to be held before the administrative law judge must be served by the employer on affected employees who are not represented by an authorized employee representative. The notice of hearing must be posted within ~~two~~ five days of receipt at or near the place where the citation is required to be posted.

Certification of the posting required in this subpart must be filed with the administrative law judge and a copy served on the commissioner within five working days of receipt of the notice of hearing. If the employer fails to certify that the posting in notice of hearing was posted within the prescribed manner time, the administrative law judge may on a motion by one of the parties or on the judge's own motion render a default decision.

5215.0721 SERVICE AND NOTICE TO REPRESENTED EMPLOYEES.

Subpart 1. **Notice of contest.** If there are any affected employees who are represented by an authorized employee representative,

the employer shall within five working days of receiving the acknowledgement of the notice of contest or petition for modification of abatement date serve by first class mail or personal delivery ~~serve~~ upon the representative the notice in part 5215.0711, subpart 1, and a copy of the notice of contest.

Service and notice to employees represented by an authorized employee representative are deemed accomplished by serving the representative by first class mail or personal delivery.

Certification of the service required in this subpart must be filed with the executive secretary of the board within five working days of receipt of the acknowledgment of the notice of contest. If the employer fails to certify the service in the prescribed manner, the board may issue an order to show cause why the contest should not be dismissed on the grounds that the employer has failed to comply with the service requirements. If the employer either fails to show cause or to certify that the notice of contest ~~has been~~ was served within the time prescribed by this part, the administrative law judge may dismiss the notice of contest. In those cases where an employer has a demonstrated history of failing to certify that the notice of contest has been served timely, the employer must show cause and certify that the notice of contest has been served within the time prescribed by this part to avoid dismissal of the notice of contest.

Subp. 2. **Notice of hearing.** ~~A copy~~ Within five working days of receipt of the notice of hearing to be held before the administrative law judge a copy of the notice of hearing shall be served by the employer on the authorized employee representative of affected employees, if any, by mail or personal delivery, if the employer has not been informed that the authorized employee representative has entered an appearance as of the date the notice is received by the employer.

Certification of the service of the notice of hearing required in this subpart must be filed with the administrative law judge and a copy served on the commissioner ~~of the board~~ within five working days of receipt of the notice of hearing. If the employer fails to certify that the service in notice was served within the prescribed ~~manner~~ time, the administrative law judge may on a motion by one of the parties or on the judge's own motion render a default decision.

5215.0730 NOTICE OF CONTEST FILED BY EMPLOYEE OR REPRESENTATIVE.

Subp. 4. **Failure to serve notice of contest.** If the parties referred to under subparts 1 to 3 fail to certify that the notice of contest has been posted or served as required within the time prescribed by this part, the board may issue an order to show cause why the contest should not be dismissed on the grounds that the contesting party has failed to comply with the posting or service requirements. If the party fails to show cause or to certify that the notice of contest has been served, the ~~board~~ administrative law judge may dismiss the notice of contest.

5215.2000 EMPLOYER CONTESTS.

Subp. 3. **Answer.** Within 15 days after service of the complaint, the party against whom the complaint was issued shall file an answer with the board and serve the answer on every other party.

The answer must contain a short and plain statement denying those allegations in the complaint which the party intends to contest. Any allegation not denied is deemed admitted.

5215.5300 SETTLEMENT.

Subp. 2. **Service and notice.** A settlement agreement must be filed with the board or administrative law judge and served upon affected employees ~~or~~ and authorized employee representatives by the employer. Service upon affected employees shall be accomplished by posting. Service upon employee representatives shall be accomplished by personal delivery or first class mail.

Subp. 3. **Contents of settlement agreements and orders.** Settlement agreements must contain:

A. an affirmative statement indicating that the notice of contest was served ~~and/or~~ and posted pursuant to parts 5215.0700 to 5215.0730;

State Board of Vocational Technical Education

Adopted Permanent Rules Relating to Education; Postsecondary Vocational Teacher Licenses

The rules proposed and published at *State Register*, Volume 13, Number 17, pages 1048-1054, October 24, 1988 (13 S.R. 1048) are adopted in part as proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

Executive Orders

Emergency Executive Order #89-1: Declaring a Minnesota Flood Emergency

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the cities of Browns Valley, Breckenridge, Moorhead and other surrounding communities have already experienced severe spring flooding; and

WHEREAS, the National Weather Service Forecast Office has predicted flood stages at or above record levels on the Red River and its tributaries; and

WHEREAS, the resources of local governments and private relief agencies are being fully utilized to respond to this crisis; and

WHEREAS, those limited resources are expected to become exhausted as the flood conditions worsen and further affect communities downstream;

NOW, THEREFORE, I hereby declare that:

A State of Emergency exists in the State of Minnesota and do direct the agencies of the state, in cooperation with appropriate federal agencies, to provide such aid as necessary under existing state and federal authority.

Pursuant to *Minnesota Statutes* 1988, Section 4.035, Subdivision 2, this Order shall be effective immediately and shall continue until such time that the emergency no longer exists. This declaration period shall be known as the MINNESOTA FLOOD EMERGENCY.

IN TESTIMONY WHEREOF, I have set my hand this 5th day of April, 1989.



Rudy Perpich
Governor

Official Notices

Pursuant to the provisions of *Minnesota Statutes* § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Health

Notice of Completed Application and Notice of and Order for Hearing

PLEASE TAKE NOTICE that the Commissioner of Health (hereinafter "Commissioner") has received a completed application to expand the currently designated primary service area from Elgin Volunteer Ambulance Service.

IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that, pursuant to *Minnesota Statutes* §§ 14.57 to 14.69 (1986) and 144.802 (Supp. 1987), a public hearing will be held on 20 June 1989 at Elgin City Hall, Elgin, Minnesota, commencing at 7 p.m. If you have an interest in this matter you are hereby urged to attend the public hearing. Failure to do so may prejudice your rights in this and any subsequent proceedings in this matter.

1. The purpose of the hearing is to determine whether the application for an expansion of primary service area for this ambulance service should be granted based upon the criteria set out at *Minnesota Statutes* § 144.802, subd. 3(g) (Supp. 1987).
2. This proceeding has been initiated pursuant to and will be controlled in all aspects by *Minnesota Statutes* §§ 144.801 to 144.8093 (1986 and Supp. 1987), *Minnesota Statutes* §§ 14.57 to 14.69 (1986), and Rules for Contested Cases of the Office of Administrative Hearings, *Minnesota Rules* 1400.5100-1400.8402 (1987). Copies of the rules and statutes may be obtained for a fee from the Department of Administration, Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, telephone: (612) 297-3000.
3. Jon L. Lunde, Office of Administrative Hearings, 500 Flour Exchange, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone: (612) 341-7645, will preside as administrative law judge at the hearing, and will make a written recommendation on this application. After the hearing, the record and the administrative law judge's recommendation will be forwarded to the Commissioner to make the final determination in the matter.
4. Any person wishing to intervene as a party must submit a petition to do so under *Minnesota Rules* pt. 1400.6200 (1987) on or before 8 May 1989. This petition must be submitted to the administrative law judge and shall be served upon all existing parties and the Commissioner. The petition must show how the contested case affects the petitioner's legal rights, duties or privileges and shall state the grounds and purposes for which intervention is sought and indicate petitioner's statutory right to intervene if one exists.
5. In addition to or in place of participating at the hearing any person may also submit written recommendations for the disposition of the application. These recommendations must be mailed to the administrative law judge on or before 17 May 1989.
6. Any subpoena needed to compel the attendance of witnesses or the production of documents may be obtained pursuant to *Minnesota Rules* pt. 1400.7000 (1987).
7. At the hearing the applicant will present its evidence showing that a license should be granted and that all persons will be given an opportunity to cross-examine witnesses, to be heard orally, to present witnesses, and to submit written data or statements. All persons are encouraged to participate in the hearing and are requested to bring to the hearing all documents, records, and witnesses needed to support their position. It is not necessary to intervene as a party in order to participate in the hearing.
8. Please be advised that if no public data is admitted into evidence, it may become public data unless an objection is made and relief is requested under *Minnesota Statutes* § 14.60, subd. 2 (1986).
9. You are hereby informed that you may choose to be represented by an attorney in these proceedings, may represent yourself, or be represented by a person of your choice if not otherwise prohibited as the unauthorized practice of law.
10. A Notice of Appearance must be filed with the administrative law judge identified above within 20 days following receipt of the Notice by any person intending to appear at the hearing as a party.
11. In accordance with the provisions of *Minnesota Statutes* § 14.61 (1986), the final decision of the Commissioner in this proceeding will not be made until the Report of the Administrative Law Judge has been made available to the parties in this proceeding for at least 10 days. Any party adversely affected by the Report of the Administrative Law Judge has the right to file exceptions and present arguments to the Commissioner. Any exceptions or arguments must be submitted in writing and filed with the Commissioner of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, within 10 days of the receipt of the Administrative Law Judge's Report.

Department of Labor and Industry

Labor Standards Division

Notice of Correction to Prevailing Wage Rates

The prevailing wage rate certified February 1, 1989 for labor classifications 407—Electrician in Cass, Clearwater, Itasca, Koochiching, Lake of the Woods and St. Louis counties for Commercial construction projects has been corrected.

Copies of the correct certification may be obtained by contacting the Minnesota's Bookstore, 117 University Avenue, St. Paul, Minnesota 55155 or the Minnesota Department of Labor and Industry, Labor Standards Division, 443 Lafayette Road, St. Paul, Minnesota 55155.

Ken Peterson, Commissioner
Department of Labor and Industry

Metropolitan Council

Notice of Preliminary Review Schedule for Amending the Aviation Chapter of the Metropolitan Development Guide

The Metropolitan Council is amending the Aviation Chapter of the Metropolitan Development Guide to incorporate the findings and recommendations of the recently completed MSP Airport Adequacy Study and the Public Heliport Feasibility Study.

Following is the preliminary review schedule for the Aviation Guide Chapter revision:

- **June 1989** Metropolitan Council adopts draft document for public hearing and sets public hearing date.
- **July 1989** Public hearing on draft plan.
- **August 1989** Council adopts Aviation Guide Chapter amendments.

A notice of public hearing will be published. If you have any questions regarding the schedule or proposed amendments, or if you are interested in being on the mailing list for notification of meetings, please call 291-6308.

Minnesota State Retirement System

Board of Directors, Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, April 21, 1989 at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Teachers Retirement Association

Notice of Regular Meeting

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting Wednesday, May 3, 1989 at 9:30 a.m. in Suite 500, Gallery Building, 17 West Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

Commodity: Intel computers—rebid
Contact: Joan Breisler 612-296-9071
Bid due date at 2pm: April 19
Agency: State University
Deliver to: St. Cloud
Requisition #: 26073 20875 2

Commodity: Laboratory oven
Contact: Joseph Gibbs 612-296-3750
Bid due date at 2pm: April 20
Agency: Transportation Department
Deliver to: Various
Requisition #: 79000 94378

Commodity: 20 ton tri axle trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Department
Deliver to: Morris
Requisition #: 79382 01612

State Contracts and Advertised Bids

Commodity: 20 ton tilt bed trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Department
Deliver to: Mankato
Requisition #: 79382 01611

Commodity: 50 ton detachable
gooseneck trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Building
Deliver to: Willmar
Requisition #: 79382 01618

Commodity: 50 ton hydraulic tail
equipment transport trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Department
Deliver to: Various
Requisition #: 79382 01607

Commodity: 35 ton sliding axle trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Department
Deliver to: Oakdale
Requisition #: 79382 01609

Commodity: Sandpaper and coated
abrasive cloth
Contact: Pat Anderson 612-296-3770
Bid due date at 2pm: April 21
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Uniform shoes and boots
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: April 21
Agency: DNR North Service Center
Deliver to: Grand Rapids
Requisition #: 29007 10168

Commodity: New wheel tractor/loader
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: DNR South Service Center
Deliver to: New Ulm
Requisition #: 29000 51724

Commodity: Miscellaneous carpentry
hand tools
Contact: Pat Anderson 612-296-3770
Bid due date at 2pm: April 21
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: 16-ton tilt bed trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Department
Deliver to: Windom
Requisition #: 79382 01613

Commodity: New or used 35-ton fifth
wheel low boy trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Department
Deliver to: Windom
Requisition #: 79382 01616

Commodity: Transport trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 21
Agency: Transportation Department
Deliver to: Oakdale and Golden Valley
Requisition #: 79382 01608

Commodity: STARS business plan
Contact: Pat Anderson 612-296-3770
Bid due date at 2pm: April 24
Agency: Administration Department
Deliver to: Various
Requisition #: Price Contract

Commodity: Hearing aids
Contact: Donnalee Kutchera 612-296-
3776
Bid due date at 2pm: April 24
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Photographic film
processing (amateur, non-specialized
carry-in)
Contact: Don Olson 612-296-3724
Bid due date at 2pm: April 25
Agency: Various
Deliver to: 7-county metro area
Requisition #: Price Contract

Commodity: Library furniture
Contact: Linda Parkos 612-296-3725
Bid due date at 2pm: April 25
Agency: Itasca Community College
Deliver to: Grand Rapids
Requisition #: 02310 16780

Commodity: 15-ton tri-axle trailer
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: April 24
Agency: Transportation Department
Deliver to: Duluth
Requisition #: 79382 01614 1

Commodity: C. Itah printer
Contact: Joan Breisler 612-296-9071
Bid due date at 2pm: April 20
Agency: Pollution Control
Deliver to: St. Paul
Requisition #: 32600 19334

Commodity: Pencils & erasers
Contact: Bernadette Vogel 612-296-
2546
Bid due date at 2pm: April 24
Agency: Central Stores
Deliver to: St. Paul
Requisition #: Price Contract

Commodity: Disk drive for Finnigan
Incoss
Contact: Joan Breisler 612-296-9071
Bid due date at 2pm: April 25
Agency: Health Department
Deliver to: Minneapolis
Requisition #: 12400 31575

Commodity: Bituminous materials
Contact: Jim Johnson 612-296-3779
Bid due date at 2pm: April 26
Agency: Transportation Department
Deliver to: Various listed locations
Requisition #: Price Contract

Commodity: Van modification
Contact: Brenda Thielen 612-296-9075
Date opens: April 21
Agency: Jobs & Training Department
Deliver to: Austin
Requisition #: 21604 59617

State Contracts and Advertised Bids

Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity: Minnesota crime watch warning labels, 19,500 3½" × 4¾" pressure sensitive 4 mil hard vinyl laminated with 1 mil clear polyester cold seal permanent adhesive, 14 plate changes, 2-sided, dylux/blue line proof required

Contact: Printing buyer's office

Bid due date at 2pm: April 19

Agency: Public Safety Department

Deliver to: St. Paul

Requisition #: 6471

Department of Corrections—St. Cloud

Request for Proposal for Orthopedic Service

Proposal must provide both on-site (at MCF/St. Cloud) and local clinic service for orthopedic health care, including consultation, medical examination, x-rays, surgical procedures at local hospital. On-site services will normally be scheduled twice per month: in-clinic visits on an as-needed basis. R.F.P. to include cost per hour for physical therapist—both on-site and in-clinic. Cost to be based on a published fee schedule. Estimated cost of two-year contract is \$50,000. Contact David Ek, Business Manager, MCF/St. Cloud. 612-255-5072. RFP due no later than May 8, 1989.

Request for Proposal for Pre-Employment Physicals

Proposal to conduct pre-employment physical examinations at the providers facility at a date and time mutually agreeable between MCF/St. Cloud Personnel Director and contractor. Specifications of examination including reporting requirements are available from MCF/St. Cloud Personnel office. Costs to be based on a per examination basis. Estimated cost of a two-year contract is \$10,800. Contact Colonel Nemeec, Personnel Officer, MCF/St. Cloud, 612-255-5002. RFP's due no later than May 8, 1989.

Request for Proposal for Services of Doctors of Internal Medicine

Proposals to provide diagnostic and treatment to inmates at the providers clinic or at the local hospital. Inmates are to be referred by the institution's physician. Cost to be based on published fee schedule. Two-year contract is estimated at \$19,600. RFP's available from Business Manager, MCF/St. Cloud, 612-255-5072. RFP's are due no later than May 8, 1989.

Department of Health

AIDS Program Unit

Request for Proposals for AIDS Knowledge, Attitudes, and Behavior Surveys for the General Public within the Black and Hispanic Communities

Purpose

The Minnesota Department of Health (MDH) is seeking proposals for the design and conduct of survey research on AIDS-related knowledge, attitudes, and behaviors (KAB) within Minnesota's Black and Hispanic communities. Both nationally and in Minnesota, AIDS and HIV infection have occurred disproportionately among Blacks and Hispanics. All survey research is to be conducted in Minnesota with appropriate samples of the Minnesota population. Applicants may submit proposals for conducting one or both surveys. Applicants are asked to submit a separate proposal for each survey. Selected applicants will contract with MDH to develop a research design, develop a valid and reliable survey instrument, conduct a pilot test of the survey instrument, implement the full-scale survey, analyze the data, and prepare a report. These tasks are formally distinguished as six "phases" of the survey project. The MDH has funding available for all six phases of the survey project to be conducted during the period August 21, 1989 through September 3, 1990.

Amount

Up to \$110,000.00.

Duration

The grant period is established for approximately 12 months, 8/89-9/90. Funds have been appropriated for only this time period. If additional funds are available, contracts may be renewed.

Eligibility Criteria

1. Any public or private agency or not-for-profit that can demonstrate administrative, organizational, programmatic and fiscal capability to conduct proposed surveys.
2. Demonstrated survey research experience in public health and with Black and/or Hispanic populations, including development of research design and data collection instruments, fielding surveys, analyzing survey data and producing reports of findings.

Procedure for Submitting Proposals

The complete request for proposals is available upon request, including Letter of Intent form, instructions, format, necessary forms, and selected readings. MDH staff will screen Letters of Intent. Those agencies that indicate the appropriate experience and expertise will be invited to submit full proposals for consideration. Agencies that submit a Letter of Intent will be notified of our decision in writing by May 5, 1989. The Letter of Intent is due by **4:30 p.m., Thursday, April 27, 1989** and the full proposal, if solicited, is due by **4:30 p.m., Thursday, May 25, 1989** to:

Pamela Fletcher
AIDS Programs Unit, Room 233
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, Minnesota 55440
(612) 623-5698

Department of Human Services

Request for Proposal Ah-Gwah-Ching Nursing Home

Bids are being taken for Medical Directorship and Staff Physician coverage for the care and treatment of residents at Ah-Gwah-Ching Nursing Home, with a cost range of \$40,000 to \$50,000 per year. For a copy of the Request for Proposal write:

Ah-Gwah-Ching Nursing Home
Ah-Gwah-Ching, MN 56430
Attn: Manda Lunde, Assistant Administrator
Telephone: 218-547-1250

The Request for Proposals are due by May 8th, 1989. The dates of service are for July 1, 1989 to June 30, 1990, with an additional one year renewal option, and cost range renegotiable second year.

State Contracts and Advertised Bids

Department of Human Services

Deaf Services Division

Contract Available for Interpreter Referral Services

The State of Minnesota, Department of Human Services, Deaf Services Division is soliciting proposals for the provision of statewide interpreter referral services used by hearing impaired individuals and a variety of public and private human service agencies.

Activities of the interpreter referral service must include the following:

1. development and maintenance of a comprehensive statewide directory of interpreters who use American Sign Language, Manually Coded English, speechreading, or other visual-gestural/tactile systems to facilitate communication;
2. filling of interpreter referral requests generated in the public, private, and non-private human service sector, with priority given to state and county human service agencies when coordinating requests;
3. filling of interpreter referral requests by hearing impaired consumers who request interpreters to attend meetings, cultural events, social events, political events, workshops, training, or media events;
4. continued development of a statewide computerized interpreter referral system which operates in conjunction with, and in support of, the Deaf Services Division Regional Service Centers for Hearing Impaired People.

Contract activities must also include monitoring of interpreter services, provision of reports in the format specified, and participation in quarterly evaluations of the interpreter referral service.

The Deaf Services Division reserves the right to award the entire amount to one responder. The total amount expended for this activity will not exceed \$101,100.00* for Fiscal Year 1990 (July 1, 1989 through June 30, 1990).

The full text of the Request for Proposals is available on request. Inquiries and responses should be directed to:

JoLynn Blaeser, Program Planner
Deaf Services Division
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155-3814
612/296-6853 (Voice) 612/297-1506 (TDD)

Responses must be received no later than 4:00 p.m. on May 12, 1989.

Late proposals will not be accepted. Award date for the FY 1990 contract will be May 31, 1989.

***Pending approval of 1989 Minnesota State Legislature**

Department of Human Services

Deaf Services Division

Contract Available for Deaf-Blind Services

The State of Minnesota, Department of Human Services, Deaf Services Division, is soliciting proposals for: 1) the provision of independent living skills and related services to deaf-blind individuals and 2) provision of technical assistance and training to statewide human service providers regarding service provision to deaf-blind individuals.

Service areas include:

- 1) intake assessment and written individual service plan development;
- 2) service planning and service management;
- 3) independent living skill-building in structured, supervised living environments or semi-independent living situations;
- 4) interpreting and/or communication facilitation services when no other agency is legally responsible for payment;
- 5) planning and provision of community integration, recreation and socialization activities;
- 6) instructional services in orientation and mobility techniques;
- 7) instructional services in communication and telecommunication strategies;
- 8) crisis intervention and support;

- 9) utilization of support service providers when appropriate;
- 10) group activities which empower and inform deaf-blind consumers;
- 11) technical assistance and consultation to human service providers;
- 12) training to human services providers statewide regarding appropriate service provision to deaf-blind individuals.

Contract activities also include monitoring of service delivery, provision of reports utilizing a specified format, participation in quarterly evaluations of the services provided, and regular meetings to review pertinent financial reports.

The amount currently appropriated for this activity is \$150,000.00* for fiscal year 1990 (July 1, 1989 through June 30, 1990).

For a copy of the full text of the Request for Proposal, contact:

Amy McQuaid, Program Planner
Department of Human Services
Deaf Services Division
444 Lafayette Road
St. Paul, Minnesota 55155-3814
612/296-8978 VOICE
612/297-1506 TDD

Responses must be received no later than 4:00 p.m. on May 12, 1989. Late proposals will not be accepted. Award date for the contract(s) will be May 31, 1989.

*Pending approval of 1989 Minnesota State Legislature

Department of Human Services

Family Support Programs

Refugee and Immigrant Assistance Division

Request for Proposal for Information Management Consulting and Technical Services

NOTICE IS HEREBY GIVEN that the Refugee and Immigrant Assistance Division, Family Support Programs, Minnesota Department of Human Services, is seeking proposals concerning the identification of the information needs of the Division, an analysis of the extent to which an existing microcomputer-based system meets Division information needs, the development of recommendations for system improvements and the implementation of system recommendations.

Funding is from the federal Refugee Resettlement Program. A contract will be issued to the successful bidder subject to the availability of federal funds.

A bidders conference will be held on April 24, 1989, from 9:30 to 11:30 a.m., CDT, in Room 4B at the Human Services Building, 444 Lafayette Road, St. Paul, Minnesota.

Proposals must be received in the Refugee and Immigrant Assistance Division by May 8, 1989, by 4:20 p.m., CDT. The Refugee and Immigrant Assistance Division reserves the right not to act on this RFP.

Please direct requests for the complete RFP, any questions, and proposals to:

Maureen O'Brien
Minnesota Department of Human Services
Refugee and Immigrant Assistant Division
444 Lafayette Road, 3rd Floor
St. Paul, Minnesota 55155-3837
(612) 296-6156

Department of Human Services

Brainerd Regional Human Services Center

Notice of Request for Proposal for Medical Services

NOTICE IS HEREBY GIVEN that Brainerd Regional Human Services Center is seeking the following services for the period July 1, 1989 through June 30, 1990: these services are to be performed as requested by the Administration of the Brainerd Regional Human Services Center.

State Contracts and Advertised Bids

1. Services of a psychiatrist to provide services on campus at times jointly agreed to. Perform and record a psychiatric diagnostic evaluation on newly admitted mentally ill clients, provide treatment recommendations, review client progress, meet regularly with treatment teams. The amount of the contract is estimated not to exceed \$36,000.00.

2. Services of a psychiatrist to visit the facility fifty weeks per week at times jointly agreed to. Perform and record psychiatric diagnostic evaluations on newly admitted mentally ill clients, provide treatment recommendations, review client progress, meet regularly with treatment teams. The amount of the contract is estimated not to exceed \$80,000.00.

3. Services of a radiologist to interpret X-Ray films taken by the Center's X-Ray technician. The amount of the contract is estimated not to exceed \$16,000.00.

4. Services of a physician 187 days per year to make rounds attending to patients, conduct daily clinics, and perform physical examinations. Provide on call coverage nights, weekends and holidays for 13 weeks as assigned. Make one visit each weekend day and holiday of on call coverage to attend to patient needs. The amount of the contract is estimated not to exceed \$66,150.00.

5. Services of a physical therapist to review patients requiring physical therapy services and recommend treatment. Provide a physical therapist to carry out prescribed treatment procedures. Provide one physical therapist assistant to assist in carrying out treatment procedures. Provide supervision of physical therapy aides who are employees of Brainerd Regional Human Services Center. The amount of the contract is estimated not to exceed \$48,500.00.

Responses on the above services must be received by May 1, 1989.

Direct inquiries to:

Elmer O. Davis
Assistant Administrator
Brainerd Regional Human Services Center
1777 Highway 18 E.
Brainerd, MN 56401
(218) 828-2399

Department of Trade and Economic Development

Office of Development Resources

Notice of Request for Proposals for Star City Training

The Office of Development Resources in the Department of Trade and Economic Development is requesting proposals for a two day training course on the practical applications of financial information as management tools.

It is anticipated that the cost per participant in the course will not exceed \$200 including the cost of materials.

Details of the requirements and scope of the proposed training are included in the Request for Proposals (RFP). To request copies of the RFP or for inquiries contact:

Joyce A. Simon
Department of Trade and Economic Development
Office of Development Resources
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Department of Transportation

Technical Services Division

Research Administration and Development

Notice of Availability of Contract for Study of Traffic Volume Projection Factor Calculation Methods

The Department of Transportation, acting as the agent for the Local Road Research Board, requires the services of a consultant to conduct a study of present and alternative methods for calculating traffic volume projection factors and prepare a report containing

State Contracts and Advertised Bids

an evaluation and comparison of various methods and a recommendation of the most effective method for consideration by the County Screening Board in its determination and implementation of a selected method to be used in Minnesota.

Work experience specifically related to Traffic Engineering is desirable.

The Local Road Research Board has budgeted a maximum of \$25,000.00 and is anticipating a one year time span for this project.

Those interested may obtain a request for proposal from:

Gabriel S. Bodoczy
Research Services Engineer
Research Development and Administration
Minnesota Department of Transportation
Room B-9 Transportation Building
St. Paul, MN 55155
Telephone (612) 296-4925

Request for Proposals will be available through April 24, 1989. All proposals will be received at the above address no later than April 27, 1989.

State Board of Vocational Technical Education

Request for Proposals for Comprehensive Enrollment Management Services

The State Board of Vocational Technical Education is requesting proposals from any qualified firm for comprehensive enrollment management services to Minnesota Technical Institute campuses. The period of contract extends to June 30, 1991.

Services shall include but are not limited to the following:

- 1) Campus audits
- 2) Strategic enrollment planning
- 3) Student retention and advising planning
- 4) Provide enrollment management training
- 5) Provide enrollment management consulting
- 6) Provide enrollment management data and software consultation
- 7) Use of an effective process to facilitate change
- 8) Create involvement and commitment to enrollment goals

The successful contractor must exhibit a proven record of success in increasing enrollment in 2 year higher education institutions with specific focus on technical institutes and or community colleges.

An understanding of the Minnesota Technical Institute System and experience in higher education in Minnesota is desirable.

For a copy of the Request for Proposal or further information please contact:

Sharon K. Grossbach
Assistant State Director
Minnesota State Board of Vocational Technical Education
100 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-9446

The maximum amount committed to perform this audit is \$150,000. The agency is not bound to issue a contract for that amount. The deadline for proposal submission is 4:00 p.m., May 15, 1989.

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Metropolitan Council

Notice of Request for Proposal (RFP) for Environmental Review of Candidate Landfill Sites

NOTICE IS HEREBY GIVEN that the Metropolitan Council is requesting proposals for consulting services to do a technical review of candidate landfill sites.

Environmental impact statements (EIS) are being prepared by Anoka, Hennepin and Washington Counties on eight candidate landfill sites. Minnesota Environmental Quality Board (EQB) rules identify the Metropolitan Council as a required distribution point for the draft EISs in order to provide review comments. In addition, after the final EISs are approved, *Minnesota Statutes* require the Council to transmit reports to the counties on the conditions and environmental review that will be necessary as part of the Council's facility permit review. The Council is requesting that a consultant prepare technical reports that will assist in the preparation of these reports.

The project should commence about June 1, 1989 and should be completed by June 1, 1990. All proposals must be received no later than 4:00 p.m. on May 8, 1989 to the attention of Paul Smith, Solid Waste Division.

Copies of the Request for Proposal (RFP) may be obtained from the Metropolitan Council, Mears Park Centre, 230 E. Fifth St., St. Paul, Minnesota 55101. Inquiries should be directed to Paul Smith (612) 291-6408.

Supreme Court Decisions

Decisions Filed 14 April 1989

C3-87-2056 Robert B. Miller v. Hazel Hennen, et al., Comet Enterprises, Inc., petitioner Appellant, Amy O. Johnson, Steven Coddon, E.T. Financial, Inc. Court of Appeals.

A purchaser of a deed, contract, lease or mortgage who has notice of prior unrecorded conveyances must reasonably investigate such conveyances even though the record shows the holders of such instruments are strangers to the record title.

The trial court's finding that respondent conducted a reasonable off-record search of the title to the subject property was not clearly erroneous.

Respondent is a bona fide purchaser under the Minnesota Recording Act, *Minnesota Statutes* § 507.34 (1986), since he purchased his interest in the property for valuable consideration in good faith and recorded first.

Affirmed. Popovich, C.J.

C4-88-1427 State of Minnesota v. Ernest John Folley, Appellant. Court of Appeals.

Under *Minnesota Statutes* § 609.04 (1988), a defendant may not be convicted of two counts of criminal sexual conduct (different sections of the statute or different subsections) on the basis of the same act or unitary course of conduct.

The amount of jail credit the defendant receives against his prison sentence should not turn on issues that are subject to manipulation by the prosecutor, on irrelevant matters such as whether the defendant pleads guilty or insists on his right to a trial, or on whether the defendant is indigent and cannot post bail.

Affirmed in part; remanded to trial court for further proceedings. Yetka, J.

Took no part, Kelley, J.

C1-87-2170 John Forster, et al. v. R.J. Reynolds Tobacco Company, petitioner, Appellant, Erickson Petroleum Corporation, d.b.a. Holiday Station Stores, Inc., petitioner, Appellant. Court of Appeals.

Under the Federal Cigarette Labeling and Advertising Act, state tort claims based on a state-imposed duty to warn are impliedly preempted; other state tort claims are not preempted.

Affirmed in part, reversed in part, and remanded for further proceedings. Simonett, J.

Tax Court

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

Tax Court—Regular Division

File No. C9-88-2861—Dated: 31 March 1989

Gary P. Blume, Petitioner, vs. County of Ramsey, Respondent, and State of Minnesota, Intervenor-Respondent.

The above-entitled matter came on for hearing before the Honorable M. Jean Stepan, Judge of the Minnesota Tax Court, on November 29, November 30, and December 1, 1988 at the Courtroom of the Tax Court, 520 Lafayette Road, St. Paul, Minnesota.

Richard M. Gaalswyk and Ruth Marcotte, of the firm of Maun, Hayes, Simon, Johanneson, Brehl and Odlaug, appeared on behalf of petitioner.

Sarah G. Mulligan, Special Assistant Attorney General, and Thomas R. Muck, Deputy Attorney General, appeared on behalf of intervenor-respondent, State of Minnesota.

By this petition Mr. Blume claims that, for the 1988 real estate tax assessment, his property is being unfairly and unequally taxed in violation of Article X, sec. 1 of the *Constitution of the State of Minnesota*, and the 14th Amendment to the United States Constitution.

Mr. Blume also claims that *1988 Minnesota Laws*, Chapter 719, violates Article IV, sections 14, 17, 19 and 21 of the *Constitution of the State of Minnesota*.

Post-trial briefs were filed by both parties and the matter was submitted to the Court for decision on February 8, 1989.

The Court, having heard and considered the evidence adduced at the hearing and upon all of the files and records herein, now makes the following:

FINDINGS OF FACT

1. Petitioner has sufficient interest in the property to maintain this petition; all statutory and jurisdictional requirements have been complied with, and the Court has jurisdiction over the subject matter of the action and the parties hereto.

2. *1988 Minnesota Laws*, ch. 719, was passed April 25, 1988 by the Minnesota Legislature. The Act was passed as House File 2590 ("H.F. 2590").

3. H.F. 2590 was introduced in the House and received its first reading on March 7, 1988. H.F. 2590 was referred to the House Committee on Taxes, which transmitted its report to the full House on March 28, 1988. The report is printed at length in the House Journal. The House voted to adopt the committee report, and H.F. 2590, first engrossment, was given its second reading, all on March 28, 1988.

4. On March 29, 1988, Representative Voss moved for immediate consideration of H.F. 2590 in the House pursuant to House Rule 1.10, and the motion prevailed. Various amendments were discussed and voted on the same day. H.F. 2590 then was read for the third time in the House. H.F. 2590 was placed upon its final passage and passed by a vote of 131 to 2. H.F. 2590 was then sent to the Senate.

5. On March 3, 1988, the companion bill to H.F. 2590, Senate File 2260 ("S.F. 2260"), was introduced in the Senate and received its first reading. S.F. 2260 was referred to the Senate Tax Committee which commenced at 8:00 p.m. on March 28th and adjourned at 1:00 a.m. on March 29th. On March 29, 1988, the Senate bill was reported back to the Senate from the Committee on Taxes and Tax Laws with the recommendation that the bill be amended extensively. The Senate bill thus amended is printed at length in the Senate Journal, including a new title, followed by the record of its approval as amended:

And when so amended the bill do pass. Amendments adopted. Report adopted.

S.F. 2260, first engrossment, then received its second reading in the Senate on March 29, 1988.

6. On March 29, 1988, H.F. 2590, as passed by the House, was transmitted to the Senate and received its first reading, and was laid on the table. On March 30, 1988, H.F. 2590 was taken from the table and Senator Moe moved that an urgency be declared and that the rules be suspended so far as with respect to H.F. 2590; the motion prevailed. H.F. 2590 received its second reading in the Senate. The Senate voted to amend H.F. 2590 by deleting everything after the enacting clause and deleting the title, and inserting the language and the title of S.F. 2260. Various other amendments to H.F. 2590 were then discussed and voted on. H.F. 2590 was read for the third time, placed on its final passage, passed by a vote of 61 to 3, and its title was agreed to. The Senate then voted to strike S.F. 2260 and lay it on the table.

Tax Court

7. On April 5, 1988, H.F. 2590, as amended by the Senate, was returned to the House with a request that the House concur in the amended bill. The House voted to refuse to concur in the Senate amendments and to appoint a Conference Committee of five House members and request that a like Senate committee be appointed. Representatives Voss, Vanasek, Wynia, Ogren and Long were appointed as House members of the Conference Committee on H.F. 2590. H.F. 2590 was then returned to the Senate.

8. On April 6, 1988, the Senate acceded to the request of the House for the appointment of a Conference Committee on H.F. 2590. Senators Johnson, Brandl, Novak, Pogemiller and Bernhagen were appointed.

9. The Conference Committee held formal public meetings on the following days and at approximately the following times:

<u>Date</u>	<u>Time</u>
Wednesday, April 6	9:00 a.m.-12:00 noon
Wednesday, April 6	9:00 p.m.-10:10 p.m.
Thursday, April 7	11:00 a.m.-12:00 noon
Thursday, April 7	9:00 p.m.- 1:00 a.m.
Friday, April 8	9:45 a.m.-11:15 a.m.
Saturday, April 9	10:00 a.m.-12:00 noon
Saturday, April 9	2:45 p.m.- 3:45 p.m.
Tuesday, April 12	11:00 a.m.-12:15 p.m.
Tuesday, April 12	4:30 p.m.- 5:20 p.m.
Wednesday, April 13	2:30 p.m.- 5:00 p.m.
Thursday, April 14	12:00 noon-12:30 p.m.
Monday, April 18	11:50 a.m.-12:00 noon
Friday, April 22	6:30 p.m.- 6:45 p.m.

10. Conferees also engaged in private discussions about H.F. 2590 after the Conference Committee was appointed. Exchanges of information and negotiations about the content of H.F. 2590 occurred during these discussions. Substantial amounts of time were spent in such discussions, especially during the week of April 17, 1988. The discussions involved anywhere from two conferees to all or most of the Conference Committee members, and/or others. No official actions were taken during these negotiations. Informal agreements were voted on at formal public meetings of the Conference Committee.

11. On April 22, 1988, the Conference Committee reached agreement on the substance of the Conference Committee Report on H.F. 2590. Final drafting changes to the report were approved upon its signature by the conferees on the morning of April 25, 1988.

12. The Conference Committee transmitted its report to the House on April 25, 1988. The House voted to adopt the report. H.F. 2590, as amended by the Conference Committee report, was read in the House for the third time and was repassed by a vote of 107 to 24.

13. On April 25, 1988, the Conference Committee transmitted its report to the Senate. Also on April 25th, the House transmitted H.F. 2590 as passed to the Senate. The Senate voted to adopt the Conference Committee report on H.F. 2590. H.F. 2590, as amended by the Conference Committee, was then read for the third time in the Senate and repassed by a vote of 58 to 7. Later on April 25, the Senate voted to reconsider the vote on H.F. 2590. H.F. 2590 was again read for the third time in the Senate and passed by a vote of 58 to 6.

14. The House voted to adjourn sine die on April 25, 1988.

15. The Senate voted to adjourn sine die on April 25, 1988.

16. Neither the House nor the Senate prescribed a day for adjournment sine die for the 1988 Legislative Session by motion, resolution or other formal action.

17. Article 5, section 26 of H.F. 2590 creates, among other provisions, a new form of state property tax relief known as "disparity reduction aid."

18. Disparity reduction aid is designed to reduce property taxes in some of the geographic areas in the state defined in the statute as "unique taxing jurisdictions" (hereinafter "UTJs"). A UTJ is defined as "the geographic area subject to the same set of tax capacity rates" (formerly mill rates). *Minnesota Statutes* § 273.1398, subd. 1(b) (1988). There are three UTJs located in Ramsey County. One consists of the part of Ramsey County also located in the City of Roseville and Independent School District ("ISD") No. 623 (which have coterminous boundaries); another consists of that part of Ramsey County which lies in the City of St. Paul, ISD No. 625, and the Ramsey/Washington Metropolitan Watershed District (including both Fish Creek and Battlecreek Sub-Watershed Districts); and the third consists of that part of Ramsey County lying in St. Paul and ISD No. 625 but outside the watershed district.

19. Petitioner Gary P. Blume owns a homestead located at 1164 Summer Street, in the City of Roseville, Ramsey County, Minnesota, which is subject to ad valorem real estate taxes annually. Petitioner's property is valued at \$79,100 for the 1988 tax assessment. Petitioner's taxes payable in 1989 will be as follows:

Ramsey County General	\$ 497.79
County Library	28.92
City of Roseville	194.76
ISD #623	863.42
NMISD #916 (vocational school)	28.15
Light Rail Authority	7.30
Metropolitan Council	9.89
Regional Transit	50.95
Metropolitan Mosquito	6.42
TOTAL GROSS LEVIES	\$1,687.60

Petitioner's property did not qualify for disparity reduction aid under section 26 because the gross tax for 1988 in Roseville's UTJ did not exceed its gross tax capacity and Roseville's levy did not exceed 23 percent of that UTJ's gross tax capacity. After application of the homestead credit of \$725.00, petitioner's net tax payable in 1989 will be \$962.60.

20. Forty-eight homesteaded parcels located in the City of St. Paul, Ramsey County, have assessor's estimated market values of \$79,100, the same as the subject property. Of those parcels, eleven are located in the UTJ of St. Paul/Ramsey/Washington Metropolitan Watershed District, Fish Creek sub-watershed; one is located in the same UTJ but the Battlecreek sub-watershed; and the remaining thirty-seven parcels lie in the St. Paul/Other UTJ. Gross 1989 levies on those parcels will be:

St. Paul/Ramsey/Washington Watershed/Fish Creek
 ("St. Paul/ M/FC")

Ramsey County General	\$ 497.79
Fish Creek Capital Improvement	6.61
Metro Watershed 1988 Capital Improvement	.39
Metro Watershed 1989 Capital Improvement	.91
City of St. Paul	475.34
ISD #625	821.79
St. Paul HRA	8.07
St. Paul Port Authority	12.59
Light Rail	7.30
Metro Council	9.89
Regional Transit	50.95
Metro Mosquito	6.42
Metro Watershed	3.07
TOTAL GROSS LEVIES	\$1,901.12

St. Paul/Ramsey/Washington Watershed/Battlecreek
 ("St. Paul/M/BC")

Ramsey County General	\$ 497.79
Metro Watershed 1988 Capital Improvement	.39
Metro Watershed 1989 Capital Improvement	.91
City of St. Paul	475.34
ISD #625	821.78
St. Paul HRA	8.07
St. Paul Port Authority	12.59
Light Rail	7.30
Metro Council	9.89
Regional Transit	50.95
Metro Mosquito	6.42
Metro Watershed	3.07
TOTAL GROSS LEVIES	\$1,894.50

St. Paul Other

Ramsey County General	\$ 497.79
City of St. Paul	475.34
ISD #625	821.79
St. Paul HRA	8.07

Tax Court

St. Paul Port Authority	12.59
Light Rail	7.30
Metro Council	9.89
Regional Transit	50.95
Metro Mosquito	6.42
TOTAL GROSS LEVIES	\$1,890.14

21. Gross tax capacity rates for the UTJs and sub-watersheds are:

Roseville/623/C	96.214%
St. Paul/M/FC	108.387%
St. Paul/M/BC	108.010%
St. Paul/Other	107.761%

22. The St. Paul UTJs qualified for disparity reduction aid under *1988 Minnesota Laws*, ch. 719, art. 5, sec. 26, subd. 3. After allocation of that aid among the various taxing authorities, the total gross tax on properties of values equal to the subject property in the following UTJs will be:

St. Paul/M/FC	\$1,883.00
St. Paul/M/BC	\$1,876.38
St. Paul/Other	\$1,869.76

23. The adjusted gross tax capacity rates in these UTJs after reduction for disparity reduction aid will be:

St. Paul/M/FC	107.354%
St. Paul/M/BC	106.977%
St. Paul/Other	106.600%

24. As allocated among the taxing jurisdictions, disparity aid will reduce the gross Ramsey County tax on the properties of value equivalent to the subject property from \$497.79 to the following:

St. Paul/M/FC	\$493.00
St. Paul/M/BC	\$493.00
St. Paul/Other	\$492.38

The subject property's gross Ramsey County tax will be \$497.79.

25. The attached Memorandum is hereby made a part of these Findings of Fact.

CONCLUSIONS OF LAW

1. Disparity reduction aid, *1988 Minnesota Laws*, ch. 719, art. 5, sec. 26, subd. 3, does not violate the uniformity clause of the Minnesota Constitution or the equal protection clause of the 14th Amendment to the United States Constitution.

2. The enactment of *1988 Minnesota Laws*, ch. 719, did not violate the "open sessions" clause of article 4, section 14 of the Minnesota Constitution.

3. The enactment of *1988 Minnesota Laws*, ch. 719, did not violate the "three readings" clause of Article 4, section 19 of the Minnesota Constitution.

4. *1988 Minnesota Laws*, ch. 719 does not violate the "single subject" or "title" clauses of article 4, section 17 of the Minnesota Constitution.

5. *1988 Minnesota Laws*, ch. 719, was not passed on a day prescribed for adjournment in violation of article 4, section 21 of the Minnesota Constitution.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

BY THE COURT,
M. Jean Stepan, Judge
Minnesota Tax Court

Announcements

Environmental Quality Board (EQB): Comments are due May 3 on the following projects at their listed regional governing unit: Rainey Lake Development, St. Louis County; Thermoform Plastics, Inc., White Bear Township; Timber Hills Area Improvements, White Bear Township; West Central Trunk Sewer & Water (Revised), Minn. Pollution Control Agency (PCA); Bemidji Oriented Strand Board Plant Expansion, PCA. • A scoping meeting for the Minn. Industrial Containment Facility is scheduled by the Metropolitan Council for April 24 at 7 p.m. at Rosemount Senior High School Student Center, 3335 142nd St. W., Rosemount.

I-94 Reconstruction: Repaving I-94 between Marion and Cedar will begin May 8. Reconstruction will involve new bridges over I-94 at Wabasha, St. Peter and Robert Streets. Along with closure of the three bridges and lane restrictions on I-94, the project will also include several ramp closures. The John Ireland entrance to eastbound I-94 will close in mid-June and remain closed until it reopens at Marion Street in 1992. The 10th Street exit from eastbound I-94 will be closed for one weekend during mid-summer. The 12th Street entrance to westbound I-94 at Wabasha Street will close in early July and remain closed until next summer. Another reconstruction project involving I-94 from east Highway 3 to east of Mounds Boulevard. That work will begin in early August.

Set-Aside Program Suspended for MnDOT Projects: Due to recent Supreme Court rulings and on the advice of the State Attorney General's office, the Minnesota Department of Transportation (MnDOT) has suspended its Disadvantaged Business Enterprise (DBE) program for state-funded projects. However, MnDOT intends to continue the DBE program for federal aid projects, which are *not* affected by the Supreme Court rulings. About 85 percent, or \$300 million, of MnDOT's projects for 1989 are federal-aid. An estimated \$38 million will be available for disadvantaged businesses. Laws creating *state and local* DBE programs, similar to MnDOT's nine-year-old program, have been struck down by the Supreme Court. As a result, MnDOT is suspending its *state* DBE program until otherwise directed by the Minnesota State Legislature. Bills addressing DBE programs statewide have been introduced in both houses of the State Legislature.

River Guides Available: The Minnesota Department of Natural Resources has two publications available free for river boaters. The Mississippi River Guide and the Metro River Guide are intended to assist anglers and other recreational boaters and to promote safe and enjoyable use of the rivers. The two booklets contain detailed maps of the rivers and each includes frequently requested information on boating facilities, safety tips and hazards specific to the Mississippi, Minnesota and St. Croix rivers. There are also detailed procedures for use of navigational locks. The Metro River Guide covers the Mississippi River from Dayton to Prescott, the Minnesota River from Shakopee to the Mississippi and the St. Croix River from Taylors Falls to Prescott. The Mississippi Guide covers the river between Hastings and the Iowa border. Boaters may obtain one or both of the free booklets by writing: Department of Natural Resources, Information Center, 500 Lafayette Road, St. Paul, MN 55155-4040, or by calling (612) 296-6157 or toll free (800) 652-9747.

Loon Watchers Needed for 1989 Survey: The Minnesota Department of Natural Resources (DNR) Nongame Wildlife Program and LoonWatch, a Minnesota and Wisconsin citizen's conservation group, are looking for volunteers to count loons this summer. On July 15, volunteers will travel to nearby computer-selected lakes, count loons, fill out a report form, and send it to LoonWatch. Meanwhile, DNR biologists will be in airplanes counting loons on the state's larger lakes. The data will be analyzed and used to produce the first statewide population survey of common loons in Minnesota. If you want to help with the 1989 Minnesota loon survey, contact LoonWatch, Sigurd Olson Environmental Institute, Northland College, Ashland, WI 54806, or phone (715) 682-1220.

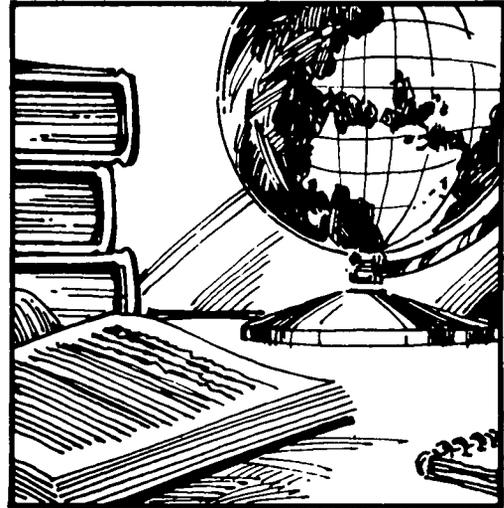
Public Invited to DNR Fisheries Meetings: Anglers will have the opportunity to express their views at a series of public meetings sponsored by the Minnesota Department of Natural Resources (DNR) Section of Fisheries. Meetings are designed to give the public input on DNR management programs and give anglers the opportunity to talk about the programs and any concerns they might have. The meetings also give the DNR a chance to discuss policies and explain how programs benefit the resource. All meetings are scheduled for 7-10 p.m. and will be held at the following cities: • **Central:** Tuesday, April 18—Cambridge Middle School, Lecture Hall, 428 NW 2nd Ave., Cambridge, MN, • **Metro:** Wednesday, April 19—Bunker Hills Activity Center, 550 Bunker Lake Blvd., Room 8, Anoka, MN, • **Southeast:** Thursday, April 20—Lake City High School Cafeteria, • **Northwest:** Tuesday, April 25—Northland Community College, Room A16, Thief River Falls, MN, • **Northeast:** Thursday, April 27—Grand Marais High School Cafeteria.

Get Smart with these Education Resources

Board of Teaching-Licensure Rules 1987. Minnesota Rules Chapter 8700. Requirements for the issuance and renewal of all licenses, from vo-tech and hearing impaired to librarians and media generalists. Includes the Code of Ethics for Minnesota Teachers, and standards for teachers prepared in other states. Code #3-74, \$7.00 plus tax.

Education Directory 1988-89. All the elementary and secondary schools in the state. Includes Minnesota school districts, superintendents, boards, principals, district addresses, phone numbers and enrollment figures. Code #1-93, \$7.00 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. *Prices are subject to change.*



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Good Business Decisions are Made with Good Information

Minnesota Manufacturer's Directory. More than 7,000 entries that include name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$76.50 plus tax.

Business and NonProfit Corporation Act 1988. A handy reference that contains all the state laws governing the establishment and conduct of corporations in Minnesota. Includes *Minnesota Statutes* Chapters 80B, 302, 302A and 317. Code #2-87, \$11.00 plus tax.

Minnesota Guidebook to State Agency Services 1987-1990. Packed with information to help you cut through red tape for easy and fast dealing with state agencies, this treasure of information opens state government to you. Its 640 pages describe agencies, how they work, listing contacts, addresses, phones, and license requirements, grants, forms, reports, maps, publications and much more. Gives historical, statistical and important data useful in hundreds of ways. Code #1-4, \$15.00 plus tax.



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Resolve Bargaining Disputes and Grievances

Public Employment Labor Relations Act 1987. The collective bargaining rights and responsibilities of public employers and public employees. Details employees' right to organize and the legislature's authority. Code #2-90, \$5.00 plus tax.

Public Sector Labor Relations in Minnesota. A practical resource and training guide analyzing public sector labor relations in Minnesota. A special emphasis on contract administration, grievance handling and the arbitration process. 286 pages, paperbound. Code #10-51, \$12.50.

Minnesota Guidebook to State Agency Services 1987-1990. A treasure of helpful, useful, and interesting information about Minnesota state government. This important resource guides you through applications, fees, licenses, reports, history and travel highlights. Describes agencies in detail, giving addresses, phones and contact people. Code #1-4, \$15.00 plus tax.



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A Wise Investment—the rules of the game

Securities Laws, 1987. Governs the activities of broker/dealers, agents and investment advisors. *Minnesota Statutes* Chapter 80A. Code #2-12, \$6.00 plus tax.

Securities Rules, 1988. Rules implementing the legislative mandate. Subjects include equity securities and investment companies. *Minnesota Rules* Chapter 2875. Code #3-5, \$14.00 plus tax.

Minnesota Guidebook to State Agency Services, 1987-1990. Packed with information to help you, this 640-page resource guides you through license requirements, forms, fees, reports, services, grants, and more. Its listing of addresses, phones, and agency descriptions cut red tape for easy and fast service from state agencies. Code #1-4, \$15.00 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**



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Welcome wildlife to your property

Landscaping for Wildlife. Attract wildlife to your land and gardens, farms and woodlots by spreading nature's welcome mat. Songbirds, butterflies, hummingbirds, pheasants, deer and other wildlife are drawn through these gardening tips and landscaping techniques that add natural beauty to your property and habitat for wildlife. Over 70 color photos and 144 pages give you simple, enjoyable, and inexpensive methods for adding the right touches for a "wildlife party" on your grounds, whether urban or rural. Stock #9-15, \$6.95 plus tax.

Woodworking for Wildlife. Songbirds, owls, ducks, geese, loons and other wildlife will show appreciation for your skills by adding a "wild" dimension to your property. Carefully illustrated with a variety of game bird and mammal box designs, this booklet provides important tips on the placement of nest in proper habitat areas and maintenance requirements. Construction diagrams included. 47 pp. Stock #9-14, \$3.95 plus tax.

Wildlife Set. Order both books above as a set and save 10%. Stock #9-20, \$9.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**



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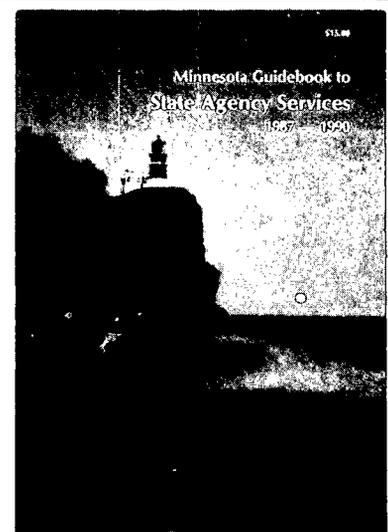
A Beacon to Guide You—Minnesota's Owners Manual

You'll enjoy smooth sailing through your business with state government with the *Minnesota Guidebook to State Agency Services 1987-1990*.

Considered one of the finest resources to Minnesota's state agencies, this valuable and useful book is a treasure awaiting your discovery.

Packed with information to help you, its 640 pages guide you through license requirements, forms, fees, reports, services, grants, hotlines, maps, history, travel highlights and more. Its listing of addresses, phones, and agency descriptions cuts red tape so you get easy and fast service.

Copies cost \$15.00 (+90¢ tax, MN residents only). Make checks out to the "State of Minnesota" and send to the Print Communications Division, 117 University Avenue, St. Paul, MN 55155. MasterCard and VISA orders can be taken over the phone by calling (612) 297-3000 or toll-free in Minnesota 1-800-652-9747.



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Getaway in Style

Room at the Inn Wisconsin. Includes hard-to-find lodgings in out-of-the-way places, as well as in Wisconsin's major metropolitan areas and most popular vacation destinations. 224pp. Stock #19-3. \$9.95 plus tax.

Room at the Inn Minnesota. Looking for a weekday or weekend get-away? For a business meeting or simply pleasure? This is the only guide to more than 50 historic "Bed & Breakfast" homes, hotels, and country inns and all are within a day's drive of the Twin Cities. 127pp. Stock #19-72, \$7.95 plus tax.

Roughing It Elegantly. A guide for the canoe camper visiting the BWCA, Voyageurs Park and Quetico Provincial Park. Full of practical tips and information: planning, organizing, packing, site location, and camp set-up. Simple, creative, enjoyable meals are a major feature. 159pp. Stock #9-3, \$9.95 plus tax.

Guide to Wilderness Canoeing. A unique blend of practical information and personal philosophy. Subjects covered include: spring and fall canoeing, traditional versus modern canoe design, and different paddling techniques. 143pp. Stock #19-81, \$6.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**



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Geological Adventures in Minnesota



Our Minnesota. More than 100 full-color photos by Les and Craig Blacklock portray Minnesota in her seasonal beauty, with text from the personal journal of Fran Blacklock's thirty years of traveling the state. Stock #9-23. \$12.95 plus tax.

Minnesota's Geology. The fascinating story of Minnesota's geologic development, from early Precambrian to Quaternary Periods and the state's mineral resources. Stock #19-80. \$18.95 plus tax.

Historic Sites and Place Names of Minnesota's North Shore. John Fritzen, long time employee of the Minnesota DNR draws upon his almost 40 years as a forester, mostly spent on Minnesota's colorful and legendary North Shore, to regale readers with tales of timbermen, pioneer settlers, miners, commercial fishermen and others. Black and white photos. Stock #9-11. \$3.50 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

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Reach Minnesota's health care field decision makers

Health Care Facilities Directory 1988

A list of hospitals and related institutions licensed and/or certified to deliver various levels of care. The list is alphabetical by county, town and facility name. Stock No. 1-89. \$16.00.

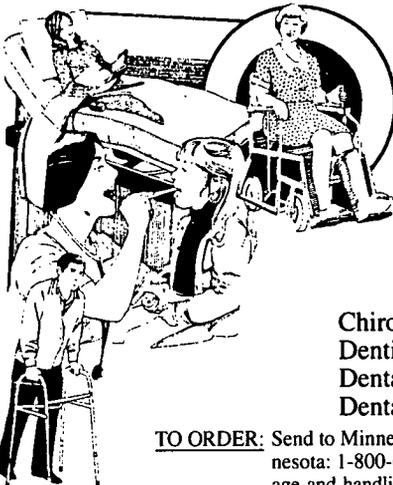
Mailing Lists of Health Care Professionals Licensed by the State of Minnesota Now Available

Call 297-2552 for more information or write to the address below for your free mailing list service packet.

Chiropractors	Medical Corporations (Clinics)	Pharmacists
Dentists	Registered Nurses	Physical Therapists
Dental Assistants	Licensed Practical Nurses	Physicians
Dental Hygienists	Pharmacies	Veterinarians

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**

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Minnesota's North Shore

Historic Sites and Place Names of Minnesota North Shore. Stories recounted by a retired DNR Forester about the North Shore's timbermen, pioneer settlers, commercial fishermen, and others who knew the area first hand. Stock #9-11. 35pp. \$3.50 + tax.

Up North. A memorable collection of essays and stories that capture the mystic moods, seasonal subtleties and colorful characters that fill the landscape up north. Stock #19-16. \$14.95 + tax.

A Family Guide to Minnesota's North Shore. The 150 miles from Duluth to the Canadian border offer travelers wilderness experiences, places of historic significance, and visions of astonishing beauty. Stock #19-84. \$3.95 + tax.

Boundary Waters. Almost 100 pages of beautiful color photographs of Minnesota's canoe country, by Jerry Stebbins with rich text by Greg Breining. Stock #19-69. \$24.99 + tax.

Minnesota II. Colorful photographs showing the lyrical balance between country and city, land and water, inhabited by 4.2 million people across 84,000 square miles. A delight for the eyes, with photos by Richard Hamilton Smith and text by Richard A. Coffey. Stock #19-30. \$32.50 + tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. *Prices are subject to change.*



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Guides for Small Businesses

These helpful guides are designed to achieve a practical balance between basic theory and day-to-day business practices. Continuing self-education is important for small business owners in an ever changing business world, and these do just that in "shirt sleeves" fashion and in language the small company can use to translate ideas into decisions and actions.

Starting and Managing a Small Business of Your Own. Stock #16-40. \$4.75 + tax.

Guides for Profit Planning. Stock #16-41. \$4.50 + tax.

A Handbook of Small Business Finance. Stock #16-42. \$2.00 + tax.

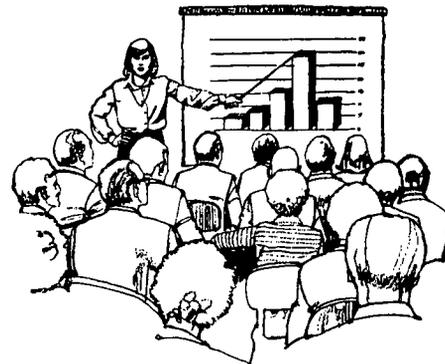
Starting and Managing a Small Service Business. Stock #16-48. \$2.00 + tax.

U.S. Government Purchasing and Sales Directory. Lists products and services bought by the military departments and civilian agencies. 191 pages, Stock #16-35, \$5.50 + tax.

For Women: Managing Your Own Business. 230 pages, Stock #16-14, \$6.50 + tax.

Managing for Profits. Stock #16-68, \$5.50 + tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. *Prices are subject to change.*



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River Stories That Warm Your Heart

A Stretch on the River. 1950 novel about the son of a wealthy family who goes to work on a Mississippi River towboat to avoid being drafted. With power, gusto and humor, author Richard Bissel creates an energetic, rowdy, and delightful account of a typical trip up the river, accurately re-creating a colorful era of towboating on America's major waterway. Stock #17-6, \$8.95 plus tax.

High Water. During the worst flood on the Mississippi River anyone can remember, the mate of a towboat has his hands full on a perilous trip, working with an unhappy crew, an angry captain, and too many barges to push against too much river. A 1954 Richard Bissel novel reveals the drama, humor and charm of working on the river. Stock #17-8. \$8.95 plus tax.

Old Times on the Mississippi River. George Merrick's lively, loving, and humorous reminiscences of his steamboat life from the bottom up, as a pantry boy, apprentice engineer, second clerk, and "cub" pilot. First published in 1909, he describes steamboat operations—from machinery and personnel to the economics of the business—with vivid examples and rich detail. 323 pp. includes appendices and index. Stock #17-45. \$8.95 plus tax.

Canoeing with the Cree. Minnesota's distinguished newsman, Eric Sevareid, wrote his first book in 1935 about a canoe journey he and a classmate made to Hudson Bay. The classic recounts their trip on the Mississippi, Minnesota and Red River of the North Rivers into Lake Winnipeg, and then God's River to Hudson Bay. 209 pp. includes index, maps and photos. Stock #17-14. \$6.95 plus tax.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. *Prices are subject to change.*



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Looking at Market Expansion?

A Basic Guide to Exporting. Step-by-step look at developing a profitable international trade, this book reveals export strategy and advice, market research, channels of distribution, making contacts, selling overseas, pricing and terms, financing the sale, export regulations, customs benefits, tax incentives, shipping and documentation, after sales service, and getting paid. Includes 10 appendices and an index. 148pp. Stock #16-69. \$8.50 + tax.

Minnesota: State Statistical and Economic Abstract. This helpful fact book by the U.S. Dept. of Commerce catalogs statistical data on population and households, labor market and human resources, economic overview, construction, manufacturing, international trade, personal income, government, high technology, state rankings in the U.S., telecommunication, information resources, travel and tourism, climate overview and geodetic service. 119pp. Stock #16-8. \$12.00 + tax.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155, (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Please include daytime phone. Visa/MasterCard orders accepted over phone.



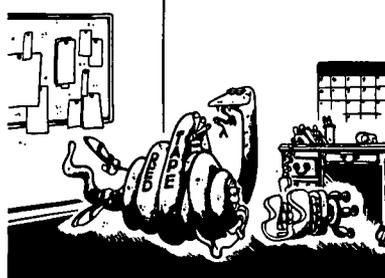
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"Red Tape" Choking You?

Relax. Unwind. Cut your frustrations with the *Minnesota Guidebook to State Agency Services 1987-1990*.

Packed with information that cuts red tape and gets results fast, the *Guidebook* tells you how to put your tax dollars TO WORK FOR YOU! It tells how to obtain grants, scholarships, assistance, information services, tax help and forms, maps, reports, guides, newsletters and publications.

You'll gain access to state agencies like never before and have AT YOUR FINGERTIPS emergency phone numbers, crisis and hot lines. This *Guidebook* will save you valuable time and money by



speedily getting you through the fears of license requirements, forms, fees, application and complaint filing, and even tells the length of waiting time for obtaining services.

Need to know about license requirements for your profession and for

recreation? IT'S A BREEZE with the *Guidebook* on your desk. It's a treasure of information on state parks, campgrounds, state forests and wildlife management areas, historic sites, museums, art galleries, festivals, libraries, education resources, agency descriptions with names and phone numbers of real people, statistical data and historical profiles.

It's "MINNESOTA'S OWNER'S MANUAL"—the handiest, fact-filled resource that answers thousands of your questions about Minnesota and how it works. Order today before they're gone. Stop struggling with bureaucratic red tape! Stock #1-4, 640 pages. \$15.00 + 90¢ tax.

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Minnesota: national leader in education

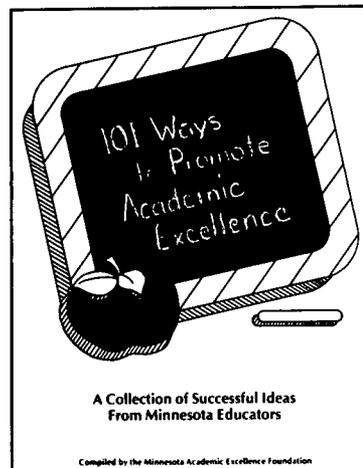
101 Ways to Promote Academic Excellence

A collection of nuts-and-bolts methods educators have successfully used to foster academic achievement. These are techniques that directly help students, can be replicated easily, are cost-effective, and that work in meeting public education's great challenge: helping every single child learn. Code #5-1, \$4.50.

Education Directory, 1988-89

This popular comprehensive directory contains Minnesota school districts, superintendents, principals, addresses, phone numbers, and enrollment. 128 pages, paperbound. Code #1-93, \$7.00.

TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. **Prices are subject to change.**



A Collection of Successful Ideas
From Minnesota Educators

Compiled by the Minnesota Academic Excellence Foundation

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MAILING LISTS GALORE

Successful business means successful sales

The Print Communications Division has a variety of mailing lists of licensed professionals and permit holders that will enable you to focus your marketing efforts on a targeted audience.

Types of lists available are: registered nurses, real estate agents, physicians, insurance agents, boatowners, hunters, cosmetologists, teachers, and many more! And you can get them on printouts, cheshire/pressure sensitive labels, 9-track magnetic tapes, and now diskettes for minimum orders.

What's more, you can choose from several selection capabilities. You will find our selections most helpful and beneficial to your business when you learn that you can acquire names and addresses of individuals in the areas you need to target most.

Find out more about our mailing lists by writing for our free mailing list service packet. In a hurry? Call (612) 297-2552 for more information. Requests can be sent to: Print Communications Division, Mailing List Service, 117 University Avenue, St. Paul, MN 55155.

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Minnesota Manufacturer's Directory 1988-89

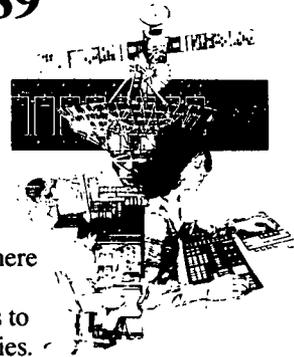


UPDATED: Name, address, phone number, staff size, sales volume, market area, year of establishment, type of firm, C.E.O., Sales or Marketing Manager, Purchasing Manager and four major manufactured products. Code #40-2, \$76.50.

NEW: In the directory this year are two titles (where applicable) Chief Engineer and Data Processing Manager.



REVISED: There are more than 7,000 changes to the 7,068 entries.



TO ORDER: Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. *Prices are subject to change.*

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Voices of the Loon

Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

Voices of the Loon, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, \$12.00.

The Loon: Voice of the Wilderness, hardbound with color plates and illustrations, 143 pages. Code #19-54, \$15.95.

Loon Calendar 1988, beautiful photographs and scenes. Code #15-40, \$6.95.

Loon Lapel Pin. Code #15-30, \$2.49.

Loon Windsock, 56 inches long in full color. Code #15-29, \$19.95.

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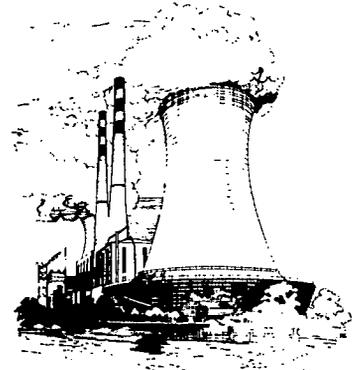
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